HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 1483/2001
CNR: RJHC020171302001 | URN: CW / 2720U / 2001

1 Prahlad Narain S/o Shri Laxmi Narain, aged years R/o Railway Quarter No. 1763-D, Ramganj, Ajmer (Since Deceased)

1.1 Mukesh Pareek S/o Late Prahlad Narain, R/o Ashok Vihar Colony, Rajosi Road, Gaddi Marg, Ajmer - 305001

1.2 Manju Pareek W/o Surendar Pareek, R/o Plot No. 92 B, Path No. 3, Teen Dukan, Vijaywadi, Sikar Road, Jaipur.

1.3 Rakesh Pareek S/o Late Prahlad Narain, R/o 118/31, New Chandra Nagar, Beawar Road, Ajmer-305001

----petitioners

Versus

1 Union of India, Ministry of Railways, Government of India, New Delhi - through its secretary.

2 The Dy. Chief Security Commissioner, Railway Protection Force, Western Railway, Church Gate, Mumbai

3 Divisional Security Commissioner, Western Railway, Railway Protection Force, Ajmer, DRM Office, Ajmer

4 Inspector Escort Company cum Inquiry Officer, Railway Protection Force, Ajmer, Lines Ramganj, Ajmer

----Respondents

Connected With

S.B. Civil Writ Petition No. 1484/2001
CNR: RJHC020171352001 | URN: CW / 2721U / 2001

1. Dashrath Singh, aged 40 years, son of Shri Takhat Singh, R/o House No. 217, New Chand Nagar, Jaipur

----petitioner

Versus

1. Union of India, Ministry of Railways, Government of India, New Delhi through its Secretary,

2. The Dy. Chief Security Commissioner, Railway Protection Force, Western Railway, Churchgate, Mumbai

3. Divisional Security Commissioner, Western Railway, Railway Protection Force Ajmer, D.R.M. Office, Ajmer

4. Inspector Escort Company cum Inquiry Officer, Railway Protection Force Ajmer, Lines Ramganj, Ajmer

----Respondents

For petitioners(s)	:	Mr. Ajeet Kumar Bhandari, Sr.Adv. with Mr. Rakshit Jain
For Respondent(s)	:	Ms. Manjeet Kaur with Ms. Taruna Singh Ms. Garvita Sharma

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HON'BLE MR. JUSTICE ANAND SHARMA

Order

31/08/2026

1. Both the above writ petitions have emanated from similar facts, cause of action and grievance, therefore, with the consent of the parties, both the writ petitions were heard together and are being decided by this common judgment. For the purpose of convenience, facts stated in S.B. CWP No. 1483/2001 are being taken into consideration, unless the context otherwise requires.

2. It is relevant to note that initially while filing the instant writ petitions, both the petitioners also challenged vires of provisions of Rule 155(4) & (6) of the Railway Protection Force Rules, 1987 however, at the outset, learned Senior Advocate appearing for the petitioners, on instructions, sought permission to withdraw the writ petition qua prayer No.(ii) relating to challenging the vires of aforesaid provisions. Permission sought for, in this regard, is granted.

3. Facts, in brief, are that both the petitioners were working in Railway Protection Force, Ajmer Division after being

appointed on 03.03.1968 and 02.07.1981 respectively. On 05.01.1990 when the petitioners were discharging their duties at Middle Yard at Ajmer railway station, the petitioner-Prahlad Narain checked a super express train at around 3 o'clock at night. Thereafter, at 3:25 PM, the ASI checked the petitioners and found that they were on duty. Both the petitioners found that two culprits were running away towards Matindale Bridge. They chased the culprits and saw them keeping some bags on the carriers of bicycle. The petitioners warned them, thereupon, the culprits ran away while leaving the bicycle and bags there, the petitioners took the bicycle and were in the process of informing about the incident to the superior officers, however, at that time, one police jeep came to the site and on quite unfounded baseless grounds, petitioners were apprehended on account of alleged theft of coal.

4. Thereafter, the petitioners were placed under suspension on 05.01.1990 and later on, memorandum of charges dated 18.01.1990 were issued by the Assistant Security Commissioner requiring the petitioners to file reply to the charge-sheet. The charges contained in the charge-sheet were mainly related with willful absence and dereliction of duty on 05.01.1990 as well as theft of coal. The petitioners filed reply to the charge-sheet and participated in the inquiry proceedings. The inquiry Officer, after conducting inquiry submitted its report on 02.01.2000. For the purpose of ascertaining the correct facts, following questions were framed by the Inquiry Officers and reply thereof was also given. Relevant portion of the inquiry report is being reproduced as under.

> "विभागीय जांच के नतीजे पर पहुंचने से पूर्व निम्नलिखित मुद्दों पर ध्यान केन्द्रित करना अति आवश्यक है।

(i) क्या नायक प्रहलाद नारायण (आरोपित नायक) दिनांक 5.1.90 को समय 3 बजे अपनी ड्यूटी बीट माल गोदाम पार्सल कार्यालय में से बिना किसी अनुमति और उचित कारण के ड्यूटी बीट छोड़ी व अनुपस्थित पाया गया?

(ii) क्या नायक प्रहलाद नारायण को निरीक्षक पुलिस थाना सदर कोतवाली अजमेर द्वारा कोयले के कट्टे के साथ राजकीय महाविद्यालय चौराहे के पास साईकिल पर रखकर ले जाते हुए को पकड़ा था।

(iii) क्या नायक प्रहलाद नारायण के कब्जे से बरामद 20 कि.ग्रा. कच्चा कोयला रेलवे की सम्पत्ति था तथा अवैध रूप से चोरी करके ले जा रहे थे।

(iv) क्या नायक प्रहलाद नारायण ने पुलिस निरीक्षक प्रमोद कुमार गोस्वामी को व स.उ.नि. बाबुलाल पुलिस थाना क्लॉक टावर अजमेर को उनके कब्जे से बरामद सम्पत्ति चोरों द्वारा छोडकर भाग जाने की बात बताई थी।

विभागीय जांच में उपरोक्त मुद्दों पर निष्कर्ष के आधार पर उत्तर इस प्रकार हैः–

(i) नहीं
(ii) हां
(iii) नहीं
(iv) हां

विभागीय जांच के दौरान उपरोक्त मुद्दे एवं कथनों के आधार पर जिसमें अभियोजन पक्ष के मुख्यतः निरीक्षक अजमेर स्टेशन की रिपोर्ट सं. 2/90 RP (UP) Act दिनांक 12.1.90 तथा उसके बयान, श्री प्रमोद कुमार गोस्वामी निरीक्षक पुलिस, स.उ.नि. बाबुलाल पुलिस थाना क्लॉक टावर अजमेर, पंच श्री नवरत्न सिंह S/o श्री रामसिंह तथा श्री सोहन लाल वर्मा से.नि.लोको फोरमैन एवं बचाव पक्ष के गवाह श्री सुरेश कुमार गुप्ता मालिक मीनू साईकिल वर्क्स तोपदडा, श्री रमेश चन्द गौहर स.उ.नि. रे.सु. बल हाल तैनात महू एवं श्री बाबुलाल 'H' है .कां तैनात स्कोर्ट कं. अजमेर के कथनों से सिद्ध पाया जाता है। साथ ही जांच में उपलब्ध अभियोजन दस्तावेजों से सिद्ध पाया जाता है। **"**

5. Thereafter conclusion of inquiry report is also being reproduced hereunder:

"<u>निष्कर्ष</u>:– विभागीय जॉच के दौरान उपलब्ध अभियोजन के दस्तावेजों एवं सक्षियों के कथनों के आधार पर तथा बचाव पक्ष के साक्षियों के आधार पर निम्नलिखित निष्कर्ष स्पष्ट होता हैः–

(i) कॉन्स दशरथ सिंह के खिलाफ लगाया गया आरोप नं0–1 जिसमें कॉन्स, समय 3.00 बजे अनाधिकृत रूप से ड्यूटी बीट से गैर हाजिर पाए जाना के बारे में अभियोजन पक्ष के दस्तावेजों एवं गवाहों से तथा बचाव पक्ष के गवाहों से यह बात सिद्ध नहीं होती है कि कॉन्स अनाधिकृत रूप से गैर हाजिर पाया था। क्योंकि बचाव पक्ष में पेश किया स.उ.नि. रमेश चन्द गौहर ने अपने बयान में इस बाबत् पूर्ण स्पष्टीकरण कर दिया है। इसके अलावा और कोई साक्ष्य इस आरोप को सिद्ध करने में सक्ष्म नहीं है।

(ii) चूंकि सभी अभियोजन पक्ष के गवाहों की गवाहियों को तथा उपलब्ध दस्तावेजों एवं बचाव पक्ष के गवाहों से यह बात सिद्ध होती है कि दिनांक 5.1.90 को कॉन्स दशरथ सिंह को पुलिस निरीक्षक प्रमोद गोस्वामी ने 20 कि0 ग्रा0 कोयले के साथ पकड़ा था। जिसे थाना प्रभारी क्लॉक टावर द्वारा तहरीर के साथ RPF थाना अजमेर स्टेशन को सुपूर्द किया गया था निरीक्षक एम.बी. मीना द्वारा प्रकरण सं. 2/90 RP (UP) Act Aii STN. दिनांक 5.1.90 दर्ज किया था। हालांकि पुलिस द्वारा मौके पर आवश्यकत कार्यवाही ना करना एवं प्रकरण की विवेचना में काफी खामियां होते हुए इस बात को नजर अंदाज नहीं किया जा सकता कि कॉन्स के खिलाफ कोयले की बरामदगी का प्रकरण दर्ज किया गया था। अतः कॉन्स के कब्जे से 20 कि0ग्रा0 कोयले के बरामदगी को मैं बिना किसी शक शुबाह के सिद्ध पाता हूँ।**"**

6. Copy of aforesaid inquiry report dated 02.01.2000 was served upon the petitioners vide letter dated 13.01.2000 &

24.01.2000 issued by the Disciplinary Authority requiring the petitioners to submit their representation.

7. Accordingly, the petitioners submitted their representation on 22.01.2000 & 08.02.2000 in which, it was specifically stated that the Inquiry Officer has given its report in favour of the petitioners therefore, the petitioners may be exonerated from the charges leveled against them.

8. Thereafter, the Disciplinary Authority passed order dated 10.04.2000 whereby penalty of compulsory retirement from service with immediate effect was inflicted upon the petitioners and no benefits of suspension period were granted to the petitioners.

9. Feeling aggrieved, the petitioners filed appeal before the Appellate Authority, however, the same did not yield any fruitful result and the appeal filed by the petitioners was also dismissed on 24.07.2000. By way of filing this writ petition, the petitioners have challenged the penalty order as well as the appellate order.

10. Mr. Ajeet Kumar Bhandari, learned Senior Advocate appearing for the petitioners, at the outset submitted that when the Inquiry Officer, after conducting meticulous inquiry has given findings in favour of the petitioners, of course, the Disciplinary Authority has got every right to disagree with the findings of Inquiry Officer, yet while doing so, the Disciplinary Authority was under an obligation to point out the points of disagreement and to serve a notice to the delinquent calling upon their comments/representations, against such points of disagreement. However, in the instant case, without following the due procedure

as well as without affording any opportunity of hearing to the petitioners, quite abruptly, while passing the penalty order the Disciplinary Authority chose to disagree with the findings of Inquiry Officer and penalty order dated 10.04.2000 was issued with conjectul findings, and one of the harshest penalty of compulsory retirement has been imposed upon the petitioners.

11. Learned Senior Advocate further submits that while filing appeal against the penalty order, although, the petitioners specifically raised the aforesaid point with regard to not affording opportunity of hearing on alleged points of disagreement, yet the Appellate Authority has also dismissed the appeal filed by the petitioners in quite mechanical and routine manner, without giving any findings whatsoever on the specific grounds of appeal raised by the petitioners.

12. *Per contra,* Ms. Manjeet Kaur, Adv. appearing for the respondents opposed the writ petition and submitted that the scope of writ petition under Article 226 of the Constitution of India against the penalty order is quite limited and only in the cases where the prescribed procedure has been flouted by the Disciplinary Authority or Inquiry Officer, or in the cases where principles of natural justice have not followed, or in the cases where the penalty imposed upon the delinquent is shockingly disproportionate, any interference can be made by this Court under Article 226 of the Constitution of India.

13. Learned counsel for the respondents submitted that under the disciplinary rules, the Disciplinary Authority can conduct inquiry in the cases of misconduct committed by the employees, either through Inquiry Officer or by himself. She submits that

when the entire record of Inquiry Officer was there with the Disciplinary Authority, after due analysis thereof, the Disciplinary Authority found that the Inquiry Officer has not properly appreciated the record and findings given by the Inquiry Officer are contrary to the material available on record. Under such circumstances, the Disciplinary Authority can record its points of disagreement and can pass appropriate penalty order against the delinquent. Learned counsel submits that the Disciplinary Authority is not bound by the findings of Inquiry Officer, which are nothing but are recommendatory in nature. Therefore, the Disciplinary Authority has committed no mistake whatsoever in inflicting penalty upon the petitioners, which cannot be said to be disproportionate in the light of seriousness of the charges leveled against the petitioners.

14. Learned counsel for the respondents also supported the appellate order and submitted that as and when the Appellate Authority confirms the order of Disciplinary Authority, it is not required to give any detailed and a speaking order and the appeal can be decided by merely upholding the order passed by the Disciplinary Authority.

15. Having heard learned counsel for the parties and perused the record, the pivotal question arising before this Court is as to whether the Disciplinary Authority has flouted the well known principles of conducting inquiry and has also violated the principles of natural justice in imposing penalty upon the petitioners.

16. This Court is mindful of the fact that while exercising jurisdiction under Article 226 of the Constitution of India, this

Court does not act as an Appellate Authority against the action taken by the Disciplinary Authority and only in the cases where from the record it is apparent and conspicuous that Disciplinary Authority has undermined the mandatory procedure of conducting inquiry and has jumped upon conclusion by flouting the principles of natural justice, this Court can scrutinize the penalty order. It is settled that while exercising powers under Article 226 of the Constitution of India, this Court can very well examine the decision making process.

17. In the light of aforesaid principles, when the record of present case was examined by this Court, it comes out that after recording the statements of witnesses as well as on examination of record, the Inquiry Officer has recorded its categorical findings that the charges leveled against the petitioners either of willful absence or dereliction of duties or even of theft of coal were not made out.

18. Copy of inquiry report was served upon the petitioners along with forwarding letter issued by the Disciplinary Authority. Bare perusal of the forwarding letter suggests nothing with regard to any point of disagreement if any, framed by the Disciplinary Authority. The inquiry report was sent as it is without any further comments by the Disciplinary Authority and the petitioners were asked to submit their representation against the inquiry report.

19. Since, the inquiry report was in favour of the petitioners, therefore, there was no occasion whatsoever available to the petitioners to make any comment over the findings of Inquiry Officer therefore, rightly so, they prayed for exonerating them on the basis of report of Inquiry Officer.

20. This Court is in complete agreement with the proposition as framed by the learned counsel for the respondents that the Disciplinary Authority is not bound by the findings of Inquiry Officer and can record its disagreement to the findings, if found erroneous and against the record, however, such power of the Disciplinary Authority is neither unbridled nor unfettered. While disagreeing with the findings of Inquiry Officer, the Disciplinary Authority was under legal obligation to specifically chalk out the points of disagreement and such dissenting note should have been conveyed by the Disciplinary Authority to the delinquent officers along with a notice, requiring fair opportunity to the delinquent, so that they can submit their justification with regard to alleged points of disagreement.

21. Admittedly, the aforesaid procedure was not adopted by the Disciplinary Authority. Instead, on its own, the Disciplinary Authority proceeded on assumption that the findings recorded by the Inquiry Officer were erroneous and against the evidence on record. On the basis of such unfounded assumption, in flagrant violation of principles of natural justice, the Disciplinary Authority proceeded to impose penalty of compulsory retirement upon the petitioners. Consequently, the decision making process adopted by the Disciplinary Authority stands vitiated for non-compliance with the fair and transparent procedure, and therefore, cannot be sustained in the eye of law.

22. This Court finds that the Appellate Authority has also utterly failed to exercise the jurisdiction vested in it. The Appellate Authority even while upholding the order passed by the Disciplinary Authority cannot act upon the dotted lines drawn by

the Disciplinary Authority and is required to give its findings over the grounds of appeal raised by the delinquents. In the instant case, this Court finds that the Appellate Authority has simply given its formal findings that the Disciplinary Authority has committed no mistake whatsoever.

23. In the case of **Punjab National Bank & Ors. Vs. Kunj Behari Mishra, (1998) 7 SCC 84** the Hon'ble Supreme Court was dealing with a matter in which, the inquiry report given by the Inquiry Officer was favourable to the delinquent, yet without recording points of disagreement, the Disciplinary Authority proceeded to pass penalty order. Such conduct of Disciplinary Authority was found to be in violation of principles of natural justice under Article 226 of the Constitution of India by the Hon'ble Supreme Court and the penalty order was quashed. In the case of **Yoginath D. Bagde Vs. State of Maharashtra & Anr.; (1999) 7 SCC 739,** the Hon'ble Supreme Court while dealing with ***pari materia*** provisions of disciplinary rules as applicable in the instant case, also observed that even where the rules are silent to the extent that the Disciplinary Authority was not required to give any opportunity of hearing, yet the principles of natural justice are required to be read into the rules and where the Inquiry Officer has held the delinquent officer as not guilty, before holding him guilty, the Disciplinary Authority is under an obligation to afford opportunity of hearing to the Inquiry Officer.

24. For the reasoned mentioned hereinabove and on the basis of analysis of facts and material on record, this Court finds that the penalty order dated 10.04.2000 passed by the Disciplinary Authority suffers from violation of mandatory

disciplinary rules as well as principles of natural justice and the Appellate order dated 24.07.2000 is also cryptic and non-speaking therefore, the penalty order as well as appellate order are hereby quashed and set-aside. It is informed that one of the petitioners has expired during the pendency of the writ petition and so far as other petitioner is concerned, he has also crossed the age of superannuation, therefore, under these circumstances, the consequence of quashing of penalty order would be that the petitioners or their legal representatives are entitled for all the consequential benefits on notional basis and they are also entitled for revision of pensionary benefits, if any admissible to them under the rules. Necessary exercise shall be conducted within a period of 60 days from the date of receipt of certified copy of this order.

25. These writ petitions are allowed, accordingly.

26. Pending application(s), if any, shall also stand disposed of.

(ANAND SHARMA),J

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