

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No.5034 of 2004**

D.D. Vaishnav, Sub Inspector, aged about 47 years, S/o Shri R.D. Vaishnav, Resident of Thana Supela, District Durg (CG)

----Petitioner

Versus

1. State of Chhattisgarh Through the Secretary, Ministry of Home Department, Mantralay, D.K.S. Building, Raipur (CG)
2. The Director General of Police, Police Headquarters, Raipur (CG)
3. The Inspector General of Police, Raipur Range, Raipur (CG)
4. The Superintendent of Police, District Rajnandgaon (CG)
5. Senior Superintendent of Police, Durg, District Durg (CG)

---- Respondents

For Petitioner	:	Mrs.Renu Kochar, Advocate
For Respondents	:	Mr.Arun Sao, Dy.Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

11/10/2017

1. Learned counsel appearing for the petitioner would submit that the petitioner preferred an appeal before respondent No.3/Inspector General of Police, Raipur Range, Raipur against the order of disciplinary authority i.e. Superintendent of Police, Rajnandgaon dated 30.11.2003 (Annexure P/4) detailing the grounds on which the order of disciplinary authority is liable to be set aside, but the appellate authority i.e. respondent No.3 did not consider the grounds of appeal and by non-speaking and unreasoned order dismissed the appeal, which is unsustainable and bad in law.
2. On the other hand, learned Deputy Advocate General for the

respondents would support the impugned order.

3. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
4. For hearing the appeal, Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter called as "Rules of 1966") is applicable. Rule 27 (2) of the Rules of 1966 provides consideration of appeal which states as under:-

"27(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 10 or enhancing any penalty imposed under the said rules, the appellate authority shall consider-

(a) whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

(b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and

(c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe;

and pass orders -

(i) confirming, enhancing, reducing or setting aside the penalty, or

(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

xxx

xxx

xxx "

5. A careful perusal of the aforesaid provision would show that all the factors which are required to be considered under Rule 27(2) of the Rules of 1966 i.e. whether procedure laid down in

these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice, whether findings of the disciplinary authority are warranted and whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe, have not been considered by the appellate authority and affirmed the order passed by the disciplinary authority by order dated 13.2.2004 (Annexure P/6), which is unsustainable and bad in law.

6. Accordingly, the impugned order dated 13.2.2004 (Annexure P/6) passed by respondent No.3/Inspector General of Police, Raipur Range, Raipur is set aside. The matter is remitted to respondent No.3/Inspector General of Police, Raipur Range, Raipur to consider the appeal preferred by the petitioner afresh in view of the provisions contained in Rule 27(2) of the Rules 1966 and to pass afresh order after hearing all affected parties within a period of three months from the date of receipt of copy of this order.
5. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-
(Sanjay K.Agrawal)
Judge