

IN THE MADHYA PRADESH STATE ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH AT JABALPUR (M.P.).

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C.A.NO. 1387/96 WP 10502/03
MA 1387/1966

APPLICANT : RAKESH SINGH S/O SHRI PRAHLAD SINGH
BHADORIA, OCCU: EX-CONSTABLE NO. 348,
30 BATTALION, JAGDALPUR, BASTAR,
DISTT: BASTAR (M.P.).

-Versus-

RESPONDENTS:

- 1) STATE OF MADHYA PRADESH
THROUGH: SECRETARY,
DEPARTMENT OF HOME (POLICE),
VALLABH BHAWAN,
BHOPAL (M.P.).
- 2) DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS,
BHOPAL (M.P.).
- 3) D.I.G.,
S.A.F., BHILLAI RANGE,
BHILLAI, DISTT: DURG (M.P.).
- 4) COMMANDANT,
30TH BATTALION, JAGDALPUR,
BASTAR, DISTT: BASTAR (M.P.).

DETAILS OF APPLICATION



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1334 of 2005**

- Rakesh Singh

---- Petitioner

Versus

- State And Ors.

---- Respondent

For Petitioner : None.

For Respondent/State : Shri Satish Gupta, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****10/04/2017**

1. The petitioner, a dismissed Constable of the Chhattisgarh Armed Forces, has preferred this writ petition seeking quashment of the order of dismissal dated 28.12.1994 and the orders passed in first appellate & second appellate proceedings as also in the mercy petition. This petition was originally filed before the erstwhile M.P. State Administrative Tribunal in the year 1996 and has thus remained pending for about 21 years. This petition was earlier dismissed for want of prosecution and later on restored to its original number, therefore, this Court proceeded to take up the matter on merits even in the absence of counsel for the petitioner.



2. I have perused the record and heard learned State Counsel.
3. The petitioner was appointed as Constable on 1.8.1984. He was issued a charge sheet on 14.9.1994 seeking his reply on the proposed charges namely, (1) at about 12.45 pm on 30.7.94 he entered SRC Campus, Leave Branch and abused, assaulted and misbehaved with his senior Subedar Major, PC Shri Nandlal Karodia, and (2) being habitual in showing indiscipline and indecent behaviour.
4. It was stated in the statement of charges that at the relevant time the petitioner entered the premises of SRC and went to the Leave Branch and enquired from the leave clerk Smt. Padmini Tiwari about his leave application. As soon as the leave clerk informed the petitioner about the application, he raised his voice, therefore, Subedar Major PC Shri Nandlal Karodia tried to persuade him but the petitioner refused to correct himself and started arguing with Subedar Major and in that course, he abused and shown indecent behaviour towards Shri Karodia. When Subedar Major came out of the SRC Campus, the petitioner continued abusive and filthy language by chasing him outside the office and was about to assault him even in the presence of superior officers. The Company Commander, Quarter Master Shri Daroga Rai separated them. In respect of charge No.2, the charge sheet mentioned that the petitioner is in the habit of showing indiscipline and indecent behaviour for which he was admonished on 31.12.1987; imposition of punishment of stoppage of increment on 15.9.88 and thereafter he was imposed

punishment of bringing to lowest in the scale vide orders dated 16.11.88 and 6.12.88. He was again imposed punishment of admonition on 27.3.89 and thereafter he was dismissed from service on 10.4.89 against which the appeal was also dismissed, however, his mercy appeal was allowed by the IG, Police on 15.1.90 directing his reinstatement in service.

5. Even after reinstatement, the petitioner continued his act of indiscipline and indecent behaviour, therefore, he was again admonished on 29.4.91, 24.1.92, 2.4.92, and 20.4.92 and thereafter punishment of stoppage of increment was imposed on 2.4.92, 6.1.93, 19.3.93. On 23.2.94, he was imposed punishment of stoppage of SAF allowance.
6. The petitioner submitted his reply to the show cause notice, which was found unsatisfactory, therefore, departmental enquiry was constituted and he was served charge sheet along with list of witnesses and list of documents. In course of enquiry, the Presenting Officer examined 8 witnesses whereas in defence the petitioner examined 3 witnesses. On appreciation of oral and documentary evidence, the enquiry officer concluded that both the charges have been proved. The petitioner was served with a notice of proposed punishment along with copy of enquiry report on 30.12.97 to which the petitioner replied and thereafter the disciplinary authority passed a detailed order on 28.12.94 imposing punishment of dismissal from service. The disciplinary authority agreed with the finding recorded by the enquiry officer and observed



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that the petitioner has failed to point out any substantial defect in the enquiry proceeding.

7. It is averred in the writ petition that witness Padmini Tiwari has not been examined by the Presenting Officer and thus the material witnesses have been withheld by the Department. The Enquiry Officer has violated Rule 14 (5) and the appellate authority has violated Rule 27 of the CG Civil Services (Classification, Control and Appeal) Rules, 1966.
8. Having perused the record, this Court is not in agreement with the grounds of challenge raised in the writ petition. The petitioner was allowed full and proper opportunity to defend his case and has in fact cross-examined witnesses. The record of departmental enquiry produced by the State Counsel for perusal of the Court would not disclose any such material defect in the enquiry proceeding, which is so substantial in nature, which would vitiate the enquiry proceeding on account of violation of any mandatory provision of law or Article 14 of the Constitution of India. The petitioner has not complained before the enquiry officer about any prejudice caused to him because of non-supply of any particular document or statement of witnesses. Even otherwise, this Court under Article 226 of the Constitution of India does not have jurisdiction to set aside the findings recorded by the enquiry officer unless the findings are outrageously perverse.



9. In **General Manager (Operations) State Bank of India and another**

Vs. R. Periyasamy, (2015) 3 SCC 101}, it has been observed in para-9

thus:-

“9. In *State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya*¹, this Court observed as follows: (SCC p. 587, para 7)

“7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide *B.C. Chaturvedi v. Union of India*², *Union of India v. G. Ganayutham*³, *Bank of India v. Degala Suryanarayana*⁴ and *High Court of Judicature of Bombay v. Shashikant S. Patil*⁵.)”

It is not necessary to multiply authorities on this point. Suffice it to say that the law is well settled in this regard.”

10. It is also to be noticed that the petitioner is in the habit of causing
indiscipline and showing indecent behaviour towards his superiors

1 (2011) 4 SCC 584

2 (1995) 6 SCC 749

3 (1997) 7 SCC 463

4 (1999) 5 SCC 762

5 (2000) 1 SCC 416

while on duty. He has been punished on many occasions for his act of indiscipline and in one enquiry he was dismissed from service but was shown leniency by the appellate authority who reinstated him. However, the petitioner failed to improve himself and provided yet another opportunity in the form of present incident.

11. Since the petitioner is habitual in showing insubordination, abusing his superiors and showing disrespect at the work place, the present is not a case where punishment can be said to be disproportionate to the nature of misconduct.

12. Insofar as the plea of non-examination of material witnesses by the Department is concerned, if the petitioner was of the opinion that some other witnesses should have been examined, no-one stopped him from producing such witnesses in his defence.

13. Considering the entire fact situation of the case, this Court is not in agreement with the grounds raised in the writ petition to set aside the impugned order of punishment and the appellate orders whereby the order of punishment has been affirmed.

14. The Writ Petition being devoid of any substance deserves to be and is hereby dismissed.

Sd/-
Prashant Kumar Mishra
Judge