

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6692 of 2017

R. K. S. Jaysindhu S/o Late Ramlal Jaysindhu, Aged About 58 Years Working
As Inspector, Police Training School, Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Principle Secretary, Department Of Home, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh
2. The Director General Of Police, Chhattisgarh Police Head Quarter, Raipur, District Raipur, Chhattisgarh
3. The Inspector General Of Police, Sarguja Range Sarguja Raipur, Chhattisgarh
4. Superintendent Of Police, District Rajnandgaon, Chhattisgarh
5. Inquiry Officer, Additional Superintendent Of Police, District Balrampur, Chhattisgarh

---- Respondents

Shri Sunil Pillai and Shri Sunil Verma, counsel for the petitioner/s.
Shri Satish Gupta, Govt. Advocate for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

07/12/2017

The petitioner has challenged the legality and validity of the departmental enquiry, order passed by the disciplinary authority as well as the appellate authority.

2. This Court found that when the petitioner preferred an appeal against the impugned order of penalty dated 21/09/2016, the appeal has been decided in most perfunctory manner, without due application of mind. An appellate authority is required to deal with the grounds raised in the appeal and decide the same in accordance with the statutory mandate of Rule 27 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966. Particularly in relation to the disciplinary enquiries against a police personnel who is also governed by the provisions of Police Regulations, this Court had an occasion to examine the legal

position and statutory duty cast upon the authority to deal with the appeal in disciplinary matters in the case of **Soniram Dhruw v. State of Madhya Pradesh and ors.** [WP(s) No.1367 of 2005] decided on 05/02/2010. After examining the provisions contained in the Rules of 1966 as also Police Regulations, this Court held

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“17. If the orders, passed by the Appellate Authority and other Authorities are scrutinized by applying aforesaid principle of law laid down keeping in view statutory requirement as to the manner of consideration of an appeal, it leads to inevitable conclusion that the order passed by the Appellate Authority does not contain any reason whatsoever and is mechanical affirmation without considering the appeal according to the statutory service rules much less application of mind to the specific grounds raised by the petitioner in his appeal. Therefore, the orders passed by the Appellate Authority and other Higher Authorities affirming the order passed in appeal are unsustainable in law and liable to be set aside”

3 The impugned order dated 08/09/2017 tested on the principles and legal position adumbrated in the case of Soniram Dhruw (supra) is clearly illegal on the face of it.

4. Learned State counsel could not dispute the legal position as laid down by this Court in the case of Soniram Dhruw (supra).

5. In view of above, I am inclined to set aside the impugned order at the motion stage itself. The impugned order (Annexure P/11) is therefore set aside and the matter is remanded to the appellate authority for due consideration of petitioner's appeal in accordance with law and the decision of this Court in the case of Soniram Dhruw (supra).

6. The petition is accordingly finally disposed off.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge