

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition No.2075 of 2004

Surendra Singh Kachhawah, Aged 38 years, S/o Shri Surat Singh,
R/o Qtr. No. 2, Police Wireless Colony, Jagdalpur (C.G.)

---- Petitioner

Versus

1. Additional Director General of Police (Administration), Police Headquarter, Raipur (C.G.)
2. Inspector General of Police (Tele Communication), Police Headquarter, Raipur (C.G.)
3. Shri Rakesh Tiwari, Inspector (Radio-T/C), Jagdalpur, R/o Qtr. No. D-2, Police Wireless Colony, Jagdalpur.

---- Respondents

For Petitioner: Mr. Bhuvaneshwar Singh Rajput, Advocate.
For Respondents No.1 and 2 / State: -
Mr. R.N. Pusty, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

31/07/2018

1. The petitioner is a Police Constable against whom departmental enquiry was instituted and ultimately, finding guilty on the charge that during the lifetime of his wife Neelam Singh, he entered into second marriage and thereby committed misconduct, a penalty of stoppage of two increments for one year with cumulative effect was imposed on which he preferred mercy appeal before the Additional Director General of Police. In the said appeal, the petitioner was issued with show cause notice for enhancement of punishment awarded to him and reply was filed by the petitioner and finding the reply not satisfactory, he has been removed from service by order dated 23-1-2014 which has been assailed in this writ petition.

2. Mr. Bhuvaneshwar Singh Rajput, learned counsel appearing for the petitioner, submits that the order impugned is in violation of Regulation 270(4) of the Chhattisgarh Police Regulations (for short, 'the Regulations') and no reasons have been recorded for enhancing the punishment imposed upon the petitioner.
3. Mr. R.N. Pusty, learned State counsel, would support the impugned order.
4. I have heard learned counsel for the parties.
5. In order to decide the dispute, it would be appropriate to notice Regulation 270(4) of the Regulations which reads as under: -

“(4) The revising authority may for reason to be recorded in writing exonerate or may remit vary of enhance the punishment imposed or may order a fresh enquiry of the taking of further evidence in the case:

Provided that it shall not vary or reverse any order unless notice has been served on the parties interested and opportunity given to them for being heard.”
6. A careful perusal of the aforesaid provision would show that the revising authority is entitled to remit, vary or enhance the punishment imposed or may award a fresh enquiry, but that is subject to reasons to be recorded in writing he is empowered to do so and reasonable opportunity of hearing has to be afforded.
7. Reverting to the facts of the present case, opportunity to show cause for enhancement of punishment has been served to the petitioner, but thereafter reply was filed by the petitioner, but no reasons have been recorded while enhancing the punishment and holding that reply is not satisfactory, punishment of dismissal has been imposed which is in teeth of the provision contained in Regulation 270(4) of the Regulations, as such, the order impugned

cannot be sustained for want of recording reasons as enumerated in Regulation 270(4) of the Regulations.

8. For the foregoing reasons, the order impugned is set aside and the case is remitted back to the Additional Director General of Police, Raipur for hearing and disposal in accordance with law after hearing the parties within three months from the date of receipt of a copy of this order.
9. With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma