

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 417 of 2005**

1. Ramlal Choubey, S/o Late Shri Rajaram Choubey, Ex-Sahayak Up Nirikshak,
New Police Line, 18 Acres, Quater No. H/9, Rajnandgaon (M.P.)

---- Petitioner

Versus

1. State of Madhya Pradesh (Now Chhattisgarh), through Police Mahanirdeshak, Police Head Quarter, M.P., Bhopal
2. Police Mahanirikshak, Raipur Range, Raipur
3. Up Police Mahanirikshak, Raipur Region, Raipur

----Respondents.

For Petitioners	:	Mr. Sunil Otwani, Advocate.
For Respondents/State	:	Mr. Ratan Pusty, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

14/08/2018

(1) The petitioner was subjected to regular departmental enquiry, in which penalty of compulsory retirement was imposed upon him. Feeling aggrieved & dissatisfied with the order of penalty, he preferred appeal before Inspector General of Police, Bhilai Zone. The IG, Bhilai Zone, by its impugned order dated 8.5.1991, has dismissed the appeal preferred by the petitioner, against which instant writ petition has been filed questioning the same.

(2) Learned counsel appearing for the petitioner would submit that by non-speaking and unreasoned order, appeal preferred by the petitioner against the penalty of compulsory retirement has been dismissed, which is contrary to the provisions contained in Rule 27 (1) (2) of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1996 (henceforth "CCA Rules, 1996")

(3) Per contra, counsel for the State would support the impugned order.

(4) Rule 27 of the CCA Rules, 1996 provides as under :-

“27. Consideration of appeal.- (1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of provisions of Rule 9 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(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 records; 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 :”

(5) Reverting to the facts of the present case, it appears that the provisions contained in Rule 27 (1)(2) of the CCA Rules, 1996 has not been complied with substantially while passing the impugned order and merely by setting out the facts and finding holding that order of penalty is just and proper, appeal has been dismissed, which is bad and

unsustainable in law.

(6) Accordingly, the writ petition is allowed. Impugned order dated 8.5.1991 is set aside.

The matter is remitted to the Inspector General of Police, Bhilai Zone for considering the matter afresh after affording due opportunity of hearing to the petitioner in accordance with the relevant law expeditiously preferably within a period of four months from the date of receipt of certified copy of this order.

(7) At this stage, counsel for the petitioner would submit that impugned order dated 8.5.1991 could not be placed on record inadvertently.

(8) Counsel for the petitioner is directed to place on record copy of order dated 8.5.1991 passed by the Inspector General of Police, Bhilai Zone.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

