

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No.4785 of 2008**

Shri Babulal Pachouri son of Shri Dwarka Prasad Pachouri, aged about 35 years, Ex-Surveyor in the Agriculture Department, resident of village Mehona, P.O. Mehona District Bhind (M.P.)

----Petitioner**Versus**

1. State of Madhya Pradesh through Secretary, Department of Agriculture, Vallabh Bhavan, Bhopal (M.P.)
2. Joint Director, Agriculture Bilaspur Division, Bilaspur (M.P.)
3. Director of Agriculture M.P. Bhopal.

---- Respondents

 For Petitioner : Mr.Vinod Deshmukh, Advocate
 For State : Mr.Arun Sao, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****20/08/2018**

1. The petitioner was terminated from the post of Surveyor by order dated 15.9.1989, against which, he has preferred an appeal before the appellate authority under Section 25 of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter called as "the Rules of 1966"). That appeal was dismissed by the impugned order dated 26.7.1994.
2. Learned counsel for the petitioner would submit that by non-speaking and unreasoned order, the appeal has been dismissed by the appellate authority.
3. On the other hand, learned Deputy Advocate General for the State would support the impugned order.

4. I have heard learned counsel for the parties and considered their rival submissions made herienabove and also gone through the records with utmost circumspection.

5. Rule 27 (2) of the Rules of 1966 provides as under:-

“27. Consideration of appeal.-

(1) xxx xxx xxx

(2) In the case of an appeal against the order imposing any of the penalties specified in rule 10 or enhancing any penalty imposed under the said rule, 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.....”

6. In view of above, the appellate authority ought to have considered and decided the appeal by reasoned and speaking order whether the procedure laid down in these rules has been complied with, whether the findings of the disciplinary authority are warranted by the evidence on the records and whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe. That has not been done in this case.

7. Accordingly, the impugned order dated 26.7.1994 is set aside. The matter is remitted to the appellate authority to consider the appeal afresh and to pass a reasoned and speaking order within

three three months from the date of receipt/production of certified copy of this order.

8. The writ petition is allowed to the extent indicated herein-above.

No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-