

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 188 of 2018

- Rakesh Singh S/o S/o Shri Prahlad Singh Bhadoria Aged About 57 Years
Occupation Ex Constable No. 348, 30 Battalion Jagdalpur, Bastar, District
Bastar, Madhya Pradesh Now Chhattisgarh

---- Appellant

Versus

1. State Of Madhya Pradesh Through The Secretary, Department Of Home
(Police) Vallabh Bhawan, Bhopal (M.P. (Now Mahanadi Bhawan) New
Raipur, District Raipur, Chhattisgarh
2. Director General Of Police Head Quarters Bhopal Madhya Pradesh Now
Raipur, Chhattisgarh
3. D.I.G. S.A.F. Bhilai Range, Bhilai, District Durg, Chhattisgarh
4. Commandant 30th Battalion, Jagdalpur, Bastar, District Bastar,
Chhattisgarh

---- Respondents

For Petitioner : Shri Sushobhit Singh, Advocate

For State/ Respondents 2, 3 and 4 : Shri UNS Deo, Government Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

02.04.2018

1) We have heard the learned counsel for the appellant and the
learned Government Advocate who appears for respondents- 2, 3 and 4.

2) The learned counsel for the appellant argued, in particular, that
Annexure A/5, decision of the Director General of Police would show that
there was no fair and due application of mind by the said officer to the

facts and circumstances of the case as is called for from a *quasi* judicial authority, who was duty bound to consider the statutory appeal in accordance with the provisions of the Rule 27 of the Chhattisgarh Civil Services Classification Control and Appeal Rules 1961. Buttrressing this argument, he made reference to the contents of Annexure A/5 and argued that, all that it reflects is a cursory consideration of the plea and the conclusion leading to the rejection of the delinquent's appeal without stating any reasons.

3) At the first blush, the aforesaid submission would appear to be appealing. But on a deeper look, we think that it is too late in the day for us to sit on an intra court appeal and carry out the exercise of looking at the matter from the aforesaid single angle. We say this particularly because, the learned Single Judge, through the impugned order dated 10.04.2017, has elaborately considered the factual matrix of the case. The allegations levelled against the delinquent including his alleged misconduct in the official premises of the Chhattisgarh Armed Forces have been adverted to and considered by the learned Single Judge. The fact that he went to the leave branch of the premises of the SRC campus and being agitated by the reply given by the leave clerk, a woman employee, he also turned against and raised voice as against Subedar Major, who tried to persuade him and dissuade from doing any wrong, has been considered by the learned Single Judge. The learned Single Judge also found material that the allegations included that the delinquent had behaved indecently and had abused Subedar Major, PC Shri Nandlal Karodia . The second charge was that the delinquent is in the habit of showing indiscipline and indecent behaviour and had been admonished

on 31.12.1987; imposed with the punishment of stoppage of increment on 15.09.1988 and thereafter, he was also punished of by bringing him to the lowest scale vide orders dated 16.11.1988 and 06.12.1988. The punishment which is under challenge herein was imposed on the delinquent on 28.12.1994. That order of dismissal was subjected to an Original Application under the Administrative Tribunal's Act before the State Administrative Tribunal (hereafter, 'the SAT') principal Bench at Jabalpur in 1996. That was ultimately decided against the appellant after it was transferred to the High Court of Chhattisgarh on the abolition of the SAT.

4) We are dealing with a delinquent in a uniformed service. Discipline is one of the sheet anchors on which such forces ought to work. Conduct inside and outside of the Office can never be watered down. The quality of findings during the enquiry and the refusal of the superior authorities to taper down the punishment clearly discloses the institutional interest that such persons ought not and, would not, be permitted to continue in service. It would be improper for a judicial review action to arrive at a different conclusion on the facts and circumstances of the case in hand.

5) For the aforesaid reasons, though the appellate order of the Director General of Police (DGP) may not be eloquent enough as one may expect in a hierarchy of *quasi* judicial jurisdictions, on the facts and in the circumstances of this case, we are satisfied that the learned Single Judge was fully justified in refusing to interfere with the decision of the administration. The refusal of the learned Single Judge to come to the aid of the delinquent and exercise authority under Article 226 of the

Constitution of India in his favour does not merit interference at our hands through this intra Court appeal under Section 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006. This appeal, therefore, fails.

6) In the result, this appeal is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge

padma