

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4303 of 2019

Deman Singh Chandrakar S/o Late Baraturam Chandrakar Aged About 55 Years Presently Posted As Head Constable Aajk, Rajnandgaon, District- Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Principal, Secretary, Home Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Naya Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Superintendent Of Police Rajnandgaon, District- Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---Respondents

For Petitioner	:	Mr. T.K. Jha, Advocate
For State	:	Ms. Shriya Mishra, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/06/2019

1. The challenge in the present writ petition is to the order (Annexure P/2) dated 29.04.2019, whereby the respondent No.2- the Superintendent of Police, Rajnandgaon has remitted the departmental enquiry initiated against the petitioner to the Inquiry Officer for a fresh adjudication from the stage of recording of the evidence of the prosecution witness namely Badri Prasad Nirala.
2. The contention of the petitioner is that the said order of the Superintendent of Police, Rajnandgaon is bad in law for the reason that no opportunity of hearing was granted to the petitioner before the matter was remanded by the respondent No.2 to the Inquiry Officer. He further submits that the same amounts to the second inquiry on the same charge. He further contended that the respondents authorities in the event of disagreeing with the finding

of the Inquiry Officer should have called upon the petitioner by a notice and only thereafter should have passed the impugned order (Annexure P/2).

3. The brief facts of the case is that the petitioner working as a Head Constable was subjected to a disciplinary proceeding and the disciplinary proceedings were initiated under Rule 14 of the **Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966** (in short “**Rules of 1966**”). An inquiry was conducted and the Inquiry Officer submitted his report to the respondent No.2-the Disciplinary Authority. However, the Disciplinary Authority not agreeing with the finding of the Inquiry Officer has remitted the matter back to the stage of recording of the evidence of the prosecution witness Badri Prasad Nirala. The respondent No.2 has given specific reasons for disagreeing with the findings given by the Inquiry Officer. The Disciplinary Authority has also found certain disparities and discrepancies in recording of the evidence before the Inquiry Officer.
4. It would be relevant at this juncture to refer to Rules 15(1) & 15(2) of the Rules of 1966 :-

15. Action on the inquiry report. -

(1) The disciplinary authority if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 14 as far as may be.

(2) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own finding on such charge, if the evidence on record is sufficient for the purpose.

5. The contention of the petitioner is that the respondent No.2 should have invoked the provisions of Rule 15(2) and therefore the proceeding is bad. The plain perusal of the aforesaid provisions of Rules 15(1) & 15(2) clearly reflects that the Rule 15(2) would be applicable only when the Disciplinary Authority himself disagreeing with the findings of the Inquiry Officer

proceeds and passes a fresh order based on the evidence, which has been brought before the Inquiry Officer and in the process, the Disciplinary Authority can even punish the delinquent employee. Such is not the case in the present instance. Rule 15(1) is the provision, which empowers the Disciplinary Authority to remit the inquiry proceeding to the Inquiry Officer for further proceedings afresh with the reasons recorded in writing. Rule 15(1) is the power, which has been invoked in the present case by the respondent No.2.

6. The respondent No.2 on verifying the records found that there were certain discrepancies and disparities in the evidence recorded during the course of inquiry and therefore has remitted it back to the Inquiry Officer for a fresh inquiry proceedings from the stage of recording of the evidence of Badri Prasad Nirala, the prosecution witness. The provision of Rule 15(1) does not provide or envisage the requirement of the notice to be given to the delinquent employee. Moreover, the delinquent employee is not going to be adversely prejudiced by the said order of remand for the reason that the petitioner would be entitled to participate in the departmental enquiry from the stage of remand and he would get all the opportunities of defence that is otherwise permissible under law. Since no prejudice would be caused to the petitioner by the said decision of remand, the same therefore cannot be said to be in violation of the provisions of Rule 15(1) of the Rules of 1966.
7. This Court therefore does not find any strong case made out by the petitioner to interfere with the findings of the respondent No.2 and the writ petition thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge