

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 881 of 2021**

Prabhat Tiwari S/o Late Shri Ramesh Kumar Tiwari Aged About 47 Years
R/o Village Thakurtola, Post Somni, Police Station Somni, Tahsil And
District Rajnandgaon Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Home/Police, Mahanadi Bhawan, Mantralay, Police Station And Post Rakhi, Atal Nagar, New Raipur , District Raipur Chhattisgarh
2. Director General Of Police (D.G.P.) Police Headquarters (PHQ), Police Station And Post Rakhi , Atal Nagar, New Raipur , District Raipur Chhattisgarh.
3. Inspector General Of Police (I.G.P.) Office Of Inspector General Of Police (I.G.P.) , 32 Bungalow, Bhilai, District Durg Chhattisgarh.
4. Superintendent Of Police (S.P.) Office Of Superintendent Of Police (S.P.) Rajnandgaon, District Rajnandgaon Chhattisgarh.
5. Sub Divisional Officer (Police)/ Preliminary Enquiry Officer Office Of Ambagarh Chowki, District Rajnandgaon Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate along with Ms. Laxmeen Kashyap, Adv.
For State	:	Ms. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15/02/2021**

1. The challenge in the present writ petition is to the order Annexure P/8, whereby the respondent No.3 exercising his revisional powers has set-aside the order dated 11.09.2020 passed by the respondent No.4 and has directed the respondent No.4 to conduct a detailed departmental enquiry and to take appropriate disciplinary action against the petitioner.

2. The facts of the case is that the petitioner was working on the post of Head Constable at Police Station Ambagarh Chowki. On account of certain complaints lodged by one of the accused in a criminal case, the petitioner was subjected to a disciplinary proceeding and a charge-sheet was issued and finally the Disciplinary Authority vide order Annexure P/6 dated 11.09.2020 has imposed a punishment of withholding of one annual increment for one year. The petitioner preferred an appeal before the respondent No.3 against the said order. The said appeal was entertained by the Appellate Authority and the Appellate Authority exercising the revisional powers vide the impugned order Annexure P/8 dated 03.12.2020 has set-aside the minor punishment imposed by the respondent No.4 and has remitted the matter to the respondent No.4 for a fresh departmental enquiry and for a fresh order to be passed. It is this order which is under challenge in the present writ petition.
3. Counsel for the petitioner submits that the said order of the respondent No.3 is in clear contravention to Rule 270 of the Chhattisgarh Police Regulations. According to the petitioner before the Appellate Authority or the Revisional Authority intended to vary or reverse the order of the Disciplinary Authority, the least that was expected was an opportunity of hearing to the delinquent, which in the instant case was the petitioner, which in the instant case have not been followed. Thus, it is a clear violation of the Rule 270 and prayed for the setting-aside of the impugned order.
4. The State counsel on the other hand opposing the petition submits that it is an order passed on an appeal preferred by the petitioner

himself and therefore the said provision of law cannot be said to have been violated and the same is in accordance with law.

5. Having heard the contentions put forth on either side and on perusal of record, it would be relevant at this juncture to take note of the provisions of Rule 270 of the Chhattisgarh Police Regulations:

"270. (1) Every order of punishment of exoneration, whether original or appellate shall be liable to revision suo motu by any authority superior to the authority making the order.

(2) xxx xxx xxx xxx

(3) xxx xxx xxx xxx

(4) The revising authority may for reason to be recorded in writing exonerate or may remit vary or 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. The plain reading of the aforesaid provision would clearly reflect that the proviso clause to sub-rule 2 clause 4 of Rule 270 clearly mandates that in the event of the Appellate Authority or the Revisional Authority intending to vary or reverse any order of the Disciplinary Authority, the same cannot be done unless a notice has been served on the party interested and an opportunity is given to the delinquent of being heard. From the plain reading of the impugned order Annexure P/8 dated 03.12.2020, it prima-facie reflect that the said procedure prescribed under the Rule 270 has not been follows by the respondent No.3.
7. Given the said facts, the writ petition on this ground alone deserves to be allowed and the impugned order dated 03.12.2020 being in clear violation of Rule 270 of the Chhattisgarh Police Regulations deserves to be and is accordingly set-aside. The matter stands

remitted back to the respondent No.3 to grant an opportunity of hearing to the petitioner and thereafter take an appropriate decision on the appeal which the petitioner has preferred against the order dated 11.09.2020.

8. The view of this Court stands fortified from a decision rendered by this Court on an earlier occasion in WPS No. 6402/2008 decided on 29.03.2016, wherein under similar circumstances the order of Revisional Authority was set-aside and remitted back for a fresh adjudication.
9. The writ petition accordingly stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved