

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.880 of 2009**

R.C. Verma, aged 54 years, Son of late Bharat Chandra Verma, Lecturer, Govt.Girls Higher Secondary School, Ambagarh Chauki, District Rajnandgaon (Chhattisgarh)

----- **Petitioner**

Versus

- 1.State Government of Chhattisgarh, Through-The Secretary, Tribal Welfare (S.C., S.T., O.B.C. & Minority) Mantralaya, D.K.S. Bhawan, Raipur (CG)
- 2.Commissioner Tribal Welfare (S.C.S.T., Minority) Distt. Raipur (CG)
- 3.Assistant Commissioner Tribal Welfare (S.C., S.T., O.B.C. & Minority), Distt.Rajnandgaon (CG)
- 4.Sub-Divisional Officer (Revenue) Mohla, District Rajnandgaon (CG)
- 5.Principal Government Higher Secondary School, Manpur, Distt.Rajnandgaon (CG)

----- **Respondents**

For Petitioner	: Mr.Vinod Kumar Sharma, Advocate
For Respondents/State	: Mr.Ravi Bhagat, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

5.7.2021

- 1.Proceedings of this matter have been taken-up through video conferencing.
- 2.Mr.Vinod Kumar Sharma, learned counsel for the petitioner, would submit that in a regular departmental enquiry held against the petitioner, by order dated 3.3.2008 (Annexure P-2) he was inflicted with penalty of stoppage of one increment without cumulative effect, against which, he preferred appeal before the appellate authority under Rule 23 (i) of

the Chhattisgarh Civil Services (Classification, Control & Appeal) Rules, 1966 (hereinafter called as 'Rules of 1966') before the State Government and his appeal was required to be considered by the appellate authority under Rule 27(2) of the Rules of 1966, but that has not been considered and appeal has been dismissed by order dated 14.1.2009 (Annexure P-1) and thereafter, he has been reverted on lower post, as such, the appellate order is contrary to the provisions contained in Rule 27(2) of the Rules of 1966 which deserves to be set aside.

3. On the other hand, Mr. Ravi Bhagat, learned Deputy Government Advocate for the respondents/State, would support the impugned order and submit that appeal filed by the petitioner has been considered and it has rightly been dismissed by the appellate authority, as such, no interference is called for.

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

5. Against the order dated 3.3.2008 (Annexure P-2) imposing minor penalty, the petitioner preferred an appeal under Rule 23(i) of the Rules of 1966, which was required to be considered under Rule 27(2) of the

Rules of 1966. Rule 27 of the Rules of 1966 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 the 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 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. A careful perusal of the impugned order would show that the appellate authority firstly quoted the facts of the case and thereafter in brief order considered the appeal and dismissed it.

7. In the instant case, the petitioner has been inflicted penalty of stoppage of one annual increment without cumulative effect and as such, the appellate authority

was required to consider the appeal filed by the petitioner in accordance with Rule 27 of the Rules 1966 and could have clearly discussed after holding that the procedure laid down in the Rules of 1966 has been complied with, firstly, whether non-compliance of the rules has resulted in the violation of any provisions of the Constitution of India or in the failure of justice, secondly, whether the findings of the disciplinary authority are warranted by the evidence on the records and thirdly, whether the penalty imposed is adequate, inadequate or severe and pass orders confirming, enhancing, reducing or setting aside the penalty.

8. It is well settled position of law that the appellate authority in disciplinary proceeding acts in quasi-judicial capacity and order passed has to be reasoned one and showing application of mind to the question raised by the appellant and if it is not done, the appellate order is vitiated. (See **Divisional Forest Officer, Kothagudem and others v. Madhusudhan Rao**¹).

9. The Supreme Court reiterated this principle of law by observing that an appellate authority by deciding statutory appeal is not only required to give hearing to the Government servant, but pass a reasoned order

1 (2008) 3 SCC 469

dealing with the contention raised in the appeal. (See **Deokinandan Sharma v. Union of India and others**²).

10. Even if the appellate order is in agreement with that of the disciplinary authority it may not be speaking order, but the authority passing the same must show that there had been proper application of mind in compliance with the requirement of law while exercising his jurisdiction particularly when the rules required application of mind on several factors and several contentions had been raised and he was bound to assign reasons so as to enable the Court reviewing its decision to ascertain as to whether he had applied his mind to the relevant factors which the rule required to do. (See **Narinder Mohan Arya v. United India Insurance Co. Ltd. and others**³).

11. Reverting to the facts of the present case in the light of aforesaid proposition of law laid down by the Supreme Court in above-stated judgments, it is quite that the appellate authority did not consider whether the procedure laid down in the Rules of 1966 has been complied with, whether non-compliance of the rules has resulted in the violation of any provisions of the Constitution of India or in the failure of justice, whether the findings of the disciplinary authority are

2 (2001) 5 SCC 340

3 (2006) 4 SCC 713

warranted by the evidence on the records and whether the penalty imposed is adequate, inadequate or severe and pass orders confirming, enhancing, reducing or setting aside the penalty and thereafter could have passed an order.

12. As a fallout and consequence of the aforesaid discussion, the order dated 14.1.2009 (Annexure P-1) passed by the appellate authority is hereby set-aside. Appeal filed by the petitioner herein is restored to the file of the appellate authority. The appellate authority is directed to consider the appeal of the petitioner in accordance with Rule 27 of the Rules of 1966 within 3 months from the date of receipt of a copy of this order and will decide the same after hearing the petitioner and other side, strictly in accordance with law. The petitioner is at liberty to file additional documents, if any, in support of his appeal and take all possible grounds.

13. The writ petition is partly allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-