

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.2586 of 2013

Sunil Sahu, S/o Shri Bhandari Ram Sahu, aged about 32 years,
Constable No.351, P.S. Bagicha, District Jashpur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Home Department, Mantralaya, P.S. Rakhi, Tahsil Aarang, Naya Raipur, District Raipur (C.G.)
2. Director General of Police, Police Head Quarter, Raipur, District Raipur (C.G.)
3. The Inspector General of Police, Surguja Range, Surguja Division, Ambikapur, District Surguja (C.G.)
4. Superintendent of Police, Jashpur, District Jashpur (C.G.)

---- Respondents

For Petitioner: Mr. C. Jayant K. Rao, Advocate.

For Respondents / State: -

Mr. Sunil Otwni, Additional Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

27/09/2021

1. The petitioner was subjected to departmental proceedings and ultimately, by order dated 6-8-2010 (Annexure P-2), he was inflicted with penalty of stoppage of one increment with cumulative effect against which he preferred appeal before the appellate authority/ Inspector General of Police, Surguja Range, Ambikapur and the appellate authority by the impugned order dated 4-5-2013 (Annexure P-1), dismissed the appeal preferred by the petitioner, which has been called in question by him in this writ petition.

2. Mr. C. Jayant K. Rao, learned counsel appearing for the petitioner, would submit that the petitioner was inflicted with penalty of stoppage of one increment with cumulative effect which amounts to major penalty against which he preferred an appeal which has not been decided in accordance with Rule 27(2) of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (for short, 'the Rules of 1966') and the appeal has been dismissed summarily.
3. Mr. Sunil Otwani, learned Additional Advocate General appearing for the respondents / State, would support the impugned order and would oppose the writ petition.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the records with utmost circumspection.
5. 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. Reverting to the facts of the present case in the light of Rule 27(2) of the Rules of 1966, it would appear that the appellate authority was required to consider whether the procedure laid down in the Rules of 1966 has been complied with or not and if not, whether such non-compliance has resulted in violation of any provisions of the Constitution of India or in the failure of justice; whether the findings of the disciplinary authority are warranted by the evidence on the record; and whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe. A careful perusal of the impugned order would show that merely by recording some finding, the appellate authority has dismissed the appeal, no categorical finding has been recorded in terms of Rule 27(2) of the Rules of 1966 to hold that the procedure laid down in the said Rules and the Police Regulations have been followed in inflicting the penalty of stoppage of one increment with cumulative effect and no categorical finding has been recorded that the findings of the disciplinary authority are warranted by evidence on record and the penalty is adequate and it is not excessive. Consequently, the impugned order dated 4-5-2013 (Annexure P-1) passed by the appellate authority is hereby set-aside. The 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(2) of the Rules of

1966 within three months from the date of receipt of a copy of this order and will decide the same after hearing the petitioner and other side and pass a reasoned and speaking order, strictly in accordance with law. The petitioner is at liberty to file additional submission before the appellate authority in support of his appeal.

7. The writ petition is allowed to the extent indicated herein-above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma