IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.7164 of 2026
Decided on: 04.11.2026

Shesh Ram Thakur **.....Petitioner**

Versus

HRTC and Ors **.....Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?[1]

For the Petitioner: In person.

For the Respondents: Mr. Virender Singh Kanwar, Advocate.

Jyotsna Rewal Dua, Judge

Petitioner feels aggrieved against the orders passed by the Disciplinary and Appellate Authority in the departmental proceedings initiated against him.

2. Learned counsel for the respondents has placed on record office instructions dated 01.08.2026 alongwith copy of office order dated 14.11.2022, and submits that the aforesaid be treated as stand of the respondents in the petition. The matter has accordingly been heard at this stage.

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[1]**Whether reporters of print and electronic media may be allowed to see the order? Yes.**

3. Charge-sheet was issued to the petitioner on 13.05.2019 under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 [CCS (CCA) Rules]. The charge-sheet levelled three charges against the petitioner pertaining to his alleged misappropriation of an amount of Rs. 1,108/- (Charge No.1), causing financial loss to the corporation to the extent of Rs.268/- (Charge No. 2), and having not discharged his duties properly on 11.04.2019 (Charge No. 3).

The Inquiry Officer furnished his report vide Annexure P-5 and held that all the allegations/charges levelled against the petitioner remained unproved. Based upon the aforesaid inquiry, Regional Manager, Local Unit Dhalli of the respondent-Corporation (respondent No. 3) issued a show cause notice to the petitioner on 18.12.2021 (Annexure P-6). In the said show cause notice, the disciplinary authority categorically observed that Inquiry Officer in his report dated 29.11.2021 has held that charges were not proved against the petitioner, yet, on considering the same very inquiry report, the disciplinary authority on "provisionally" coming to the conclusion to impose one of the major penalties upon the petitioner, issued show cause notice to him to furnish his response.

Petitioner submitted his written response on 04.03.2022 (Annexure P-7). This was followed by office order issued on 11.04.2022 (Annexure P-8) by respondent No. 3 imposing penalty of stoppage (of increment-sic) for six months without cumulative effect and not adversely affecting his pensionary benefits.

It is the case of the petitioner that he thereafter preferred an appeal to the Appellate Authority against the penalty imposed upon him by the Disciplinary Authority, but his appeal was not decided on merits. Feeling aggrieved, petitioner preferred this writ petition seeking following substantive reliefs:-

> *"(i) Issue an appropriate writ, order or direction for quashing and setting aside the impugned penalty order dated 11.04.2022 (Annexure P-8) being illegal, arbitrary and unsustainable in law.*
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> *(ii) Issue directions to the respondents to release the salary and all consequential benefits for the suspension period i.e. 26.04.2019 to 01.07.2019, by treating the said period as duty period for all intents and purposes;*
>
> *(iii) Issue directions to the respondents to grant all consequential benefits, including restoration of increment and service benefits alongwith upto date interest;*
>
> *(iv) Issue directions to the respondents to decide the appeal of the petitioner in a fair and reasoned manner, in accordance with law."*

4. The office instructions dated 01.08.2026 from the Regional Manager of the respondent- Corporation, convey that petitioner though had preferred an appeal against the order passed by the Disciplinary Authority imposing penalty of stoppage of one increment of the petitioner for six months without cumulative effect, but the same was preferred after lapse of 83 days; The appeal had to be preferred within 45 days of the order imposing penalty upon the petitioner; Appeal being barred by limitation was dismissed accordingly on 14.11.2022.

5. The documents on record are clear pointer to the fact that the Inquiry Officer in his inquiry report (Annexure P-5) has clearly held out that none of the charges levelled against the petitioner was proved. That being the admitted position, in case the Disciplinary Authority was not in agreement with the findings recorded by the Inquiry Officer, was required to take recourse to the procedure prescribed under Rule 15 of the CCS (CCA) Rules as under:-

> *"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 forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the disciplinary authority or where the Disciplinary Authority is not the inquiring authority, a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiring Authority on any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority within fifteen days, irrespective of whether the report is favourable or not to the Government servant. ……."*

It is a matter of record, as is evident from several documents appended with the petition, that such recourse was not resorted to by the Disciplinary Authority. Even while acknowledging that Inquiry Officer had held charges levelled against the petitioner had not been proved, the Disciplinary Authority, for some undisclosed reasons, had come to the conclusion that a major penalty deserved to be imposed upon the petitioner and with that framework of prejudged notion issued show cause notice to the petitioner on 18.12.2021 calling for his reply.

In the given facts and circumstances, the reply called for from the petitioner was a mere empty formality. Mind of the disciplinary authority had already been made up and reflected as such in the show-cause notice issued on 18.12.2021. As noticed earlier, the show-cause notice was even otherwise illegal. Once the Inquiry Officer had held in the inquiry report about charges levelled against the

petitioner having not been proved, without taking recourse to Rule 15 of the CCS (CCA) Rules, the show-cause notice for imposition of penalty could not have been issued in the facts and circumstances of the case. The proceedings subsequent to the stage of inquiry report as conducted by the respondent were not in consonance with law and procedure. The Disciplinary Authority went on to discard the response furnished by the petitioner to the show-cause notice, followed by imposition of minor penalty upon the petitioner under order dated 11.04.2022, stopping his one increment for six months without cumulative effect. Petitioner's appeal against the penalty order has been dismissed being barred by limitation. Rule 25 of the CCS (CCA) Rules, though prescribes period of forty five days for preferring appeal against the order passed by the Disciplinary Authority, but with a proviso enabling the Appellate Authority to entertain the appeal after the expiry of the period on satisfaction that appellant had sufficient cause for not preferring the appeal in time. During hearing of the case, the petitioner-in-person endeavored to place on record certain documents to project that penalty order purportedly issued on 11.04.2022 was not supplied to him at the relevant time. That it was supplied to him after about

3-4 months and immediately thereafter he filed appeal against it. Be that as it may. Since it has been demonstrated on record that show-cause notice issued to the petitioner on 18.12.2021, based upon which penalty was imposed upon the petitioner, not only suffers from pre-judgment of the issue, but is also not in consonance with the procedure prescribed under the CCS (CCA) Rules. The penalty imposed upon the petitioner under office order dated 11.04.2022 cannot withstand legal scrutiny. Accordingly, this writ petition is allowed. Penalty imposed upon the petitioner under office order dated 11.04.2022 is quashed and set aside. Consequences in law shall follow.

Pending miscellaneous application(s), if any, also to stand disposed of.

Jyotsna Rewal Dua
Judge

November 4, 2026
R.Atal