



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 981/2019

Shankar Ram S/o Shri Jassa Ram, Aged About 30 Years,
Residents Of Sridhana, Tehsil Merta City, District Nagaur.

-----Petitioner

Versus

1. The State Of Rajasthan, Through The Secretary,
Department Of Home Affairs, Government Of Rajasthan,
Jaipur.
2. The Inspector General Of Police, Jodhpur Range, Jodhpur.
3. The Superintendent Of Police, Pali.

-----Respondents

For Petitioner(s) : Mr. Vivek Firoda
Mr. Jairam Saran
Mr Nikhil Bishnoi

For Respondent(s) : Mr. Raj Singh Bhati, on behalf of
Mr. Ritu Raj Singh Bhati, GC

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE

Order reserved on : 30/10/2025

Order pronounced on : 04/12/2025

1. The instant writ petition, preferred under Article 226 of the Constitution of India, challenges a chain of administrative orders that have cumulatively resulted in the dismissal of the petitioner, Shri Shankar Ram, from his service as a Constable in the Police Department. The challenge is specifically directed against four sequential orders: the original disciplinary order dated 29.11.2016 (Annexure 6) imposing a penalty of stoppage of two annual grade



increments with cumulative effect; the Appellate Authority's remand order dated 29.09.2017 (Annexure 7); the enhanced penalty order passed upon remand by the Disciplinary Authority dated 14.11.2017 (Annexure 9), imposing a punishment of stoppage of four annual grade increments with cumulative effect; and the final, determinative order dated 15.05.2018 (Annexure 12), passed by the Inspector General of Police, Jodhpur Range, Jodhpur, in the *suo motu* exercise of review powers under Rule 32 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules (for short, hereinafter referred to as 'the CCA Rules'), enhanced the penalty to dismissal from service. This Court is tasked with reviewing the legality, procedural correctness, proportionality of the punishment and desirability of these actions, particularly the Reviewing Authority's intervention that imposed the ultimate penalty.

2. The petitioner, Shri Shankar Ram, began his service as a Constable on 24.09.2008. He was issued a charge-sheet dated 04.05.2015 alleging serious misconduct during his training period in 2009-2010. The core allegation was that the petitioner associated with Shri Richpal Singh, a canteen contractor, fraudulently demanded a sum of ₹1,30,000/- from the contractor's son, Bhupendra Singh, promising to secure his appointment as a Constable in District Pali. It was alleged that an advance of ₹50,000/- was received, deposited partly in the petitioner's bank account and partly in his cousin's account.



3. Following the petitioner's unsatisfactory reply, a departmental enquiry was conducted, concluding with a finding of guilt against the petitioner. The Disciplinary Authority initially passed the order dated 29.11.2016 (Annexure 6), imposing the minor penalty of stoppage of two annual grade increments with cumulative effect.

4. However, upon the petitioner's appeal, the Appellate Authority, vide order dated 29.09.2017 (Annexure 7), observed that the punishment was inadequate given the severity of the charge and remanded the matter for reconsideration of the penalty. In compliance with this remand, the Disciplinary Authority issued a fresh order on 14.11.2017 (Annexure 9), enhancing the penalty to stoppage of four annual grade increments with cumulative effect.

5. Subsequently, the Inspector General of Police, Jodhpur Range, acting as the Reviewing Authority, *suo motu* invoked his powers under Rule 32, alleging that the Disciplinary Authority's previous orders were non-speaking and not based on reasonable grounds. Despite the petitioner's submission of a reply to the review notice, the Reviewing Authority passed the final and operative order dated 15.05.2018 (Annexure 12), setting aside the previous penalties and imposing the extreme punishment of



dismissal from service, which forms the immediate cause of action for the present petition.

6. Learned counsel for the petitioner submitted that the impugned order of dismissal dated 15.05.2018, passed by the Reviewing Authority in exercise of *suo motu* powers under Rule 32 of the CCA Rules, is wholly arbitrary, perverse, and violative of the principles of natural justice. The foundation of the review proceedings was flawed *ab initio* because the show-cause notice issued to the petitioner alleged that the Disciplinary Authority's order was non-speaking and lacked reasonable grounds. However, the record clearly evidences that the Disciplinary Authority's order was a detailed 27 page document that exhaustively appreciated the evidence, the statements of witnesses, and the defense documents before imposing the penalty of stoppage of increments, therefore, the premise for invoking review powers giving reason that the subordinate authority passed a cryptic or non-speaking order, was factually incorrect and reflects a total non-application of mind by the Reviewing Authority.

7. Learned counsel for the petitioner further contends that the findings of guilt recorded against the petitioner are legally unsustainable as they rely almost exclusively on the Preliminary Enquiry report, completely ignoring the evidence led during the regular departmental enquiry. It is a settled proposition of law that



a Preliminary Enquiry is merely a fact-finding exercise to decide whether to initiate proceedings; once a regular enquiry commences, the charges must be proved independently by examining witnesses during regular enquiry and the findings must be based upon it only. In the present case, the prosecution utterly failed to substantiate the charge during the regular enquiry as the key witnesses, including the complainant Shri Richpal Singh and his son Bhupendra Singh, turned hostile and did not support the department's case. They categorically deposed that the transaction of ₹50,000 was a friendly loan for domestic purposes which had been repaid, and explicitly denied that the petitioner had ever induced them with promises of recruitment in the police force. They also deposed that the complaint was submitted under the influence of the other people as the petitioner was not repaying the loan amount.

8. Learned counsel for the petitioner further submitted that the respondents failed to appreciate a crucial aspect that is the outcome of the parallel criminal proceedings arising out of the exact same set of facts. In FIR No. 276/2014 registered at Police Station Kishangarh, the Investigating Officer, after a thorough investigation, concluded that the dispute was purely of a civil nature regarding a loan transaction that had been settled. A Final Report (FR) was filed and subsequently accepted by the learned Judicial Magistrate. While the standard of proof in criminal and departmental proceedings differs, the Reviewing Authority cannot



completely disown the findings of its own police investigation which exonerated the petitioner of any criminal intent or corruption. The dismissal order is perverse as it fails to account for this exoneration and the hostile testimony of the material witnesses.



9. Learned counsel further submitted that the Reviewing Authority acted with a predetermined mind and bias. The chronology of events reveals that the same authority first remanded the matter back to the Disciplinary Authority on 29.09.2017, finding the initial punishment inadequate. When the Disciplinary Authority subsequently enhanced the punishment to the stoppage of four annual grade increments, the Reviewing Authority was still unsatisfied and *suo motu* intervened again to impose the extreme penalty of dismissal. This clearly indicates that the authority was not acting objectively to ensure justice but was bent upon to dismiss the petitioner regardless of the evidence on record. The notice for review did not provide any specific disagreement with the fact findings of the Disciplinary Authority but merely expressed a vague dissatisfaction, which is impermissible under the law.

10. The final argument of the learned counsel for the petitioner was that the punishment of dismissal from service is grossly disproportionate and shocks the judicial conscience. The alleged



incident dates back to 2009-2010 when the petitioner was a probationer or a newly recruited Constable. It is highly improbable and defies logic that a fresh recruit in the lowest rank of the constabulary could influence the recruitment process or successfully convince a canteen contractor at a Police Training Centre that he had such influence. Taking into consideration the lack of corroborative evidence, the retraction of statements by the complainant, the repayment of the loan amount, and the acceptance of the Final Report by the criminal court, the imposition of the major penalty of dismissal, amounts to economic death of the employee, that is harsh, oppressive, and totally incommensurate with the material available on record.

11. Per contra, it is vehemently submitted on behalf of the respondent State that the writ petition is devoid of merit and liable to be dismissed, as the impugned order of dismissal was passed after following the due process of law and the punishment was commensurate with the gravity of the misconduct committed by the petitioner. The respondents contend that the petitioner, being a member of a disciplined police force, is expected to maintain the highest standards of integrity and probity. The allegation that the petitioner, while under training, extracted money from a canteen contractor by promising to secure a government job for his son involves moral turpitude and seriously undermines the public confidence in the police administration. Such corrupt conduct



cannot be viewed leniently, and the retention of such an employee in government service is wholly undesirable.

12. Learned counsel for the respondents further argued that the scope of judicial review under Article 226 of the Constitution of India in matters of departmental enquiry is extremely limited. The High Court cannot sit as an appellate authority to re-appreciate the evidence or substitute its own findings for that of the Disciplinary or Reviewing Authority. Relying on the ratio laid down by the Hon'ble Supreme Court in **State of Uttar Pradesh & Ors. Vs. Manmohan Nath Sinha [(2009) 8 SCC 310]** and **Central Industrial Security Force Vs. Shri Abrar Ali [2017 (4) SCC 507]**, learned counsel for the respondents submitted that as long as the enquiry was conducted fairly, the principles of natural justice were observed, and there is some evidence to support the conclusion, the Court should not interfere. In the present case, the petitioner was afforded ample opportunity to defend himself at every stage, including the reply to the charge sheet, the enquiry proceedings, and the specific notice issued by the Reviewing Authority regarding the enhancement of the penalty.

13. So far as the hostile testimony of witnesses and the Final Report in the criminal case are concerned, learned counsel for the respondents submitted that the standard of proof in a departmental enquiry is the "preponderance of probabilities" and



not "proof beyond reasonable doubt" as required in criminal law. The mere fact that the complainant and his son turned hostile during the enquiry or that a compromise was reached resulting in a Final Report in the criminal investigation does not absolve the petitioner of the misconduct. The documentary evidence regarding the transfer of funds into the petitioner's and his cousin's bank accounts remained a matter of record. The subsequent return of money by the petitioner effectively establishes that a transaction took place, and the convenient change at the stance by the witnesses suggests a settlement between the parties, which does not wash away the stain of misconduct regarding the integrity of a police officer.

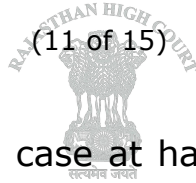
14. Learned counsel for the respondents also vigorously defended the validity of the order passed by the Reviewing Authority under Rule 32 of the CCA Rules. It is submitted that the Inspector General of Police, acting as the Reviewing Authority, is statutorily empowered to take *suo motu* cognizance if the punishment awarded by the lower authority is found to be inadequate or disproportionate to the charge. The earlier punishment of mere stoppage of increments was woefully inadequate for a charge involving corruption and job racketeering. The Reviewing Authority, after issuing a proper notice and considering the petitioner's representation, rightly concluded that the Disciplinary Authority had failed to appreciate the severity of the lapse. The impugned order of dismissal is a speaking order



that considers the material on record and corrects the error of the subordinate authority to maintain discipline within the force.

15. Having carefully considered the submissions advanced by the learned counsel for the petitioner and the learned counsel for the respondents, this court is constrained to exercise its jurisdiction under Article 226 of the Constitution of India, not to re-appreciate evidence, but to examine the legality, procedure, and proportionality of the impugned orders, particularly the final order of dismissal dated 15.05.2018. While this Court acknowledges the limited scope of judicial review in disciplinary matters, interference becomes necessary when the administrative action suffers from patent perversity, illegality, or gross violation of the principles governing departmental enquiries.

16. The primary flaw apparent on the face of the record is the fundamental reliance by the Reviewing Authority placed upon the Preliminary Enquiry Report throughout the proceedings, culminating in the final penalty of dismissal. It is a trite and settled proposition of service jurisprudence that the purpose of a Preliminary Enquiry is only to ascertain whether a *prima facie* case exists to warrant a detailed investigation or a regular departmental enquiry under Rule 16 of the CCA Rules. Once the formal enquiry is initiated, the charges must be proved by the prosecution through legally admissible evidence led during the



regular proceedings. In the case at hand, the prosecution's entire case collapsed during the regular enquiry as the key witnesses, the canteen owner Richpal Singh and his son Bhupendra Singh, unequivocally stated that the transaction was merely a loan for domestic purposes, which was subsequently repaid, and they explicitly refuted the core allegation that the petitioner had coaxed them with a promise of securing employment in the police force, therefore, relying on statements recorded during the Preliminary Enquiry, while ignoring the clear testimony and retraction provided by these prosecution witnesses in the formal inquiry, amounts to condemnation based on no legal evidence, rendering the finding of guilt unsustainable. It am of the considered view that the material of preliminary enquiry cannot be made the sole basis of punishment when such material did not come on record during the regular enquiry.

17. Furthermore, this Court finds merit in the petitioner's challenge to the exercise of *suo motu* review power by the Inspector General of Police under Rule 32 of the CCA Rules. The Reviewing Authority proceeded on the flawed premise that the Disciplinary Authority's order dated 14.11.2017 was a non-speaking order and lacked reasonable grounds in spite of the fact that the order being a detailed document of 27 pages wherein the evidence was clearly appreciated and every material fact had been considered therein. This erroneous characterization suggests a failure on the part of the Reviewing Authority to apply its mind



independently to the record. The fact that the same authority first remanded the matter for enhanced punishment and then, being dissatisfied even with the enhanced penalty of four increments, proceeded *suo motu* to impose the maximum penalty of dismissal, raises a serious doubt regarding the objectivity and fairness of the process. The power to review must be exercised judiciously, not capriciously or with a pre-determined goal to ensure awarding a particular punishment. Such an action amounts to an arbitrary exercise of discretion, thus, violative of Article 14 of the Constitution of India. This court is of the view that while exercising review jurisdiction, the Reviewing Authority was supposed to mention particular factual or legal error in the order of Disciplinary Authority before taking cognizance and issuance of review notice to the employee

18. The fact that the Investigating Officer in the criminal case, FIR No. 276/2014 registered at the Police Station Kishangarh, pertaining to the very same incident, submitted a Final Report concluding the matter was civil in nature and the same was accepted by the Judicial Magistrate, also assumes importance. While the conclusion of the criminal court is not binding on the disciplinary authority, the underlying factual finding that the allegation of inducement for recruitment was unsupported by evidence and the transaction was essentially a loan cannot be entirely disregarded, especially when the prosecution's own



witnesses contradicted the official narrative in the departmental enquiry.

19. True it is that the standard of proof applicable in a criminal trial and that in a departmental enquiry operate on distinct planes, the former requiring proof beyond reasonable doubt, whereas the latter proceeds on the touchstone of preponderance of probabilities. However, it must equally be recognised that, for the purposes of recording a conviction, acquittal or maintaining an appeal in criminal law, the threshold of "beyond reasonable doubt" is indispensable. In contrast, the stage of investigation- extending up to the formation of opinion by the Investigating Officer, filing of a police report, cognizance by the Magistrate, or framing of charges- rests upon a standard akin to, or at least not materially different from, the standard that guides a departmental enquiry, namely, whether the material indicates sufficient probability of wrongdoing. In the present case, the police themselves conducted an investigation into the very allegations forming the substratum of the departmental action and categorically reported the case to be false, culminating in the submission of a negative Final Report, which was duly accepted by the learned Judicial Magistrate. In these circumstances, it can reasonably be noted that even on the spectrum of probabilities, no material was found that could establish a case against the petitioner; and significantly, this is the very standard that is required to be evaluated in a departmental



enquiry as well, distinct though it may be from the rigour of criminal proof.

20. The Reviewing Authority's decision to completely ignore the evidence of record, the hostile witnesses, and the conclusion of the police's own investigation, leads to an error apparent on the face of the record. The Reviewing Authority cannot be expected to substitute his opinion against the material fact available on record.

21. In light of the egregious procedural and evidentiary flaws noted, this Court is of the considered opinion that the impugned order of dismissal dated 15.05.2018, and the preceding appellate order dated 29.09.2017 which led to the flawed remand, are legally untenable and cannot be sustained. The penalty of dismissal from service, which severely impacts the petitioner's right to livelihood, is unwarranted given the shaky factual foundation of the charge.

22. Accordingly, the writ petition is allowed in part. The orders dated 29.09.2017 (Annexure 7) and 15.05.2018 (Annexure 12) are hereby quashed and set aside. As a consequence of the setting aside of the order dated 29.09.2017, the order dated 14.11.2017 (Annexure 9), enhancing the punishment on remand, is also quashed and set aside. The matter is remanded back to the Inspector General of Police to conduct a fresh review and pass a fresh order of punishment, if he chooses to do so. It is made



explicitly clear that the Reviewing Authority shall confine its reconsideration strictly to the material brought on record during the regular disciplinary proceedings and shall also take into account the conclusion of the Investigating Officer in the connected FIR. Further, the Reviewing Authority shall bear in mind that the Preliminary Enquiry cannot be made the sole basis for a finding of guilt or for determining the quantum of punishment. The exercise shall be completed within a period of three months from the date of presentation of a certified copy of this order.

23. The petitioner, Shri Shankar Ram, is directed to be reinstated to his service forthwith. The period from the date of dismissal till reinstatement shall be treated as on duty for the purpose of continuity of service, but without the benefit of back wages, which shall be determined based on the outcome of the fresh penalty order, if any passed by the Reviewing Authority within the time given.

24. All pending applications are disposed of.

25. No order as to costs.

(FARJAND ALI),J

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