

(2008) 04 RAJ CK 0068
In the Rajasthan High Court

Anil Bishnoi

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 11-04-2008

Acts Referred:

Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 — Rule 17

Citation : (2008) 04 RAJ CK 0068

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Govind Mathur, J.—To quash the order passed by the disciplinary authority imposing a penalty of censure, as affirmed by the appellate authority as well as by the reviewing authority, this petition for writ is preferred.

2. The noticeable facts of the case are that a charge sheet as per the provisions of Rule 17 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (hereinafter referred to as "the Rules of 1958") was served upon the petitioner alleging therein as follows:

?1? vki Jh vfuy dqekj fo"uksbZ mi&fujh{kd fnukad 24&11&2000 ls 19&6&2002 fnukad rd iqfyl Fkkuk eqdykok esa Fkkukf/kdkjh ds in inLFkkfir Fks A vkidks rSukrh ds nkSjku vfHk;ksx la0 45@2002 o 52@02 iqfyl Fkkuk eqdykok esa ntZ gqv k A mDr izdj.k egRow.kZ gksrs gq, Hkh vkus vUos".k [kqn "kq: ugh fd;k A vkSj Jh i`Foh flag l0m0fu0 o Jh th:}hu l0m0fujh0 ds lqinZ dj fn;k A

?2? fnukad 11-4-02 dks vkjksfir cyoUrflag dh fxjrkjh gsrq tc vuqla/kku vf/kdkjh Jh th:}hu l0m0fujh0 ?kVukLFky ij igqaWpk rks mDr xyoUl flag us ns"kh dVk ?12 cksj? vuqla/kku vf/kdkjh dks ekjus dh fu;r ls Qk;j fd;k A dkjrw fel gksus ds dkj.k xaHkhj ?kVuk ?kVr gksus ls Vy xbZ A mDr ?kVuk ds lEcU/k esa vkidks lwpuk nh xbZ] vki ekSdk ij igqaps] vkus vuqla/kku vf/kdkjh dks vius ncko esa ysdj ?kVr ? kVuk dks Nqikdj] eu?kM+.r dgkuh cukdj cyoUrflag ds fo:) /kkjk 307 Hkk-na-la- o 3@25 vkeZl ,DV dk vfHk;ksx ntZ djds dsoy eqyfteku dks Qk;nk igqWapkus dh

fu;r ls eq0ua0 53@2002 /kkjk 3@25 vkeZI ,DV esa ntZ dj pkyku is"k U;k;ky; dj
fn;k x;k A

?3? eq0ua0 45@2002 o 52@2002 ds vkjksih enu yky] j.kohj mQZ j?kwohj
fnukad 12&3&2002 ls fn0 10&4&2002 rd dsunzh; dkjx`g chdkusj ls iSjksy ij
vk;s gq, Fks A mudks vki }kjk u rks fxjrkj djok;k x;k vkSj u gh v/khuLFk LVkQ ls
fxjrkj ds iz;kl djok;s x;s A ftl dkj.k mDr nksuksa vkjksih iSjksy lekIr gksu ij iqu%
tsy chdkusj eas izos"k dj x;s ftl dkj.k mudh fxjrkjh o cjenxh ugh gks ldh A

?4? eq0ua0 45@02] 52@02 Fkkuk eqdykok ds vkjksfirx.k dks fxjrkjh gsrq vki }
kjk dksbZ iz;kl ugh fd;s x;s A vkSj u gh cjenxh ds iz;kl fd;s x;s A ntZ izdj.kks
esa eqyfteku dh fxjrkjh u djus ds ,ot esa eqyfteku ls feyhHkxr dj fj"or dh ekax
djrs jgs A ifjoknh u{k= dh ifjokn ij bl lEcU/k esa tkWap dh xbZ rks vkaf"kd :i ls
izekf.kr ikbZ xbZ A

3. The petitioner explained the circumstances and as a matter of fact the disciplinary authority was satisfied with the explanation given by the petitioner, however, he choose to impose a penalty of censure upon the petitioner on the count that accused Raghuv eer Singh @ Ranveer could have been arrested earlier, if the investigation would have been supervised by the petitioner. An appeal preferred by the petitioner before the Deputy Inspector General of Police, Bikaner Range, Bikaner came to be rejected on 18.6.2003 and a review petition also came to be rejected by the State Government on 3.8.2005.

4. While assailing validity of the orders impugned, the contention of counsel for the petitioner is that the allegation against the petitioner was with regard to not making investigation in certain cases and an adequate explanation of that was given by him to the disciplinary authority. The disciplinary authority was satisfied with the explanation given and as such there was no occasion for imposing any penalty, may that be of censure.

5. As per the respondents, the petitioner while taking advantage of his post registered a case under the Arms Act only though an attempt to murder was committed and this was done only with an intention to safeguard the accused persons.

6. I have examined the record and also considered the arguments advanced.

7. The stand of the respondents that the petitioner with an intention to safeguard accused persons lodged a case under the Arms Act, is having no foundation and as a matter of fact this is not at all subject matter of present controversy. The question in the instant matter is regarding correctness of the penalty imposed by the disciplinary authority. The disciplinary authority nowhere found the petitioner guilty for safeguarding accused persons. The only finding given by the disciplinary authority against the petitioner is that he did not choose to supervise the investigation. On examination of the order passed by the disciplinary authority, it is apparent that as a matter of fact the explanation given by the petitioner was found satisfactory as the investigation in the cases concerned was

to be made by the Assistant Sub Inspector. It is not in dispute that the Assistant Sub Inspector is entitled and eligible to make investigation in cases of all types irrespective of availability of the Sub Inspector at the Police Station. The finding given by the disciplinary authority that the petitioner failed to supervise investigation is not based on any evidence. The investigation in the case concerned was made by the Assistant Sub Inspector and the responsibility of the petitioner in capacity of Station House Officer was to the extent that the investigation should have taken place with all efficiency. The disciplinary authority, once being satisfied with the explanation given by the delinquent employee, had no occasion to impose the penalty of censure.

8. Accordingly, this petition for writ is allowed. The order impugned dated 10.2.2003 passed by the Superintendent of Police, Sriganaganagar and all orders affirming the order aforesaid are hereby quashed.