
(2019) 03 RAJ CK 0174
In the Rajasthan High Court
Case No : Civil Writ No. 3530 Of 2019

Azad Singh

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 15-03-2019

Acts Referred:

Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 — Rule 14, 32

Citation : (2019) 03 RAJ CK 0174

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Vikas Bijarnia

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioner aggrieved against notice dated 31.01.2019 (Annexure-9), wherein, notice under Rule 32 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 ('the Rules') has been issued to the petitioner in relation to order dated 13.08.2018 passed by the disciplinary authority, whereby, petitioner has been exonerated from the charges.

The petitioner was charge-sheeted vide charge-sheet dated 26.03.2016. The petitioner resisted the same. The inquiry was conducted wherein the Inquiry Officer exonerated the petitioner from the charges. The report was sent back to the Inquiry Officer with certain comments, which were responded to and the exoneration was reiterated.

The disciplinary authority by order dated 13.08.2018, concurred with the report of the Inquiry Officer and came to the conclusion that there was no evidence available on record to prove the charges against the Delinquent Officer and exonerated him.

By notice dated 31.01.2019 the Inspector General of Police while coming to the conclusion that the exoneration was not justified and appropriate, issued show cause notice to the petitioner as to why he may not be punished as per the

charges, requiring the petitioner to respond to the said notice and in case he wanted opportunity of hearing he could apply for the same.

It is submitted by learned counsel for the petitioner that the issuance of notice under Rule 32 of the Rules is not justified. Several submissions have been made seeking to emphasize that the report of Inquiry Officer and the decision of the disciplinary authority were justified and there was no reason for issuance of notice under Rule 32 of the Rules and therefore, the same deserves to be quashed and set aside. A feeble submission was made that the notice under Rule 32 of the Rules can only be issued if a delinquent is found guilty and in case of exoneration such a notice cannot be issued. Reliance was placed on judgment in *Gautam Jain v. State of Rajasthan & Ors.* : 2009 (5) WLC (Raj.) 566.

I have considered the submissions made by learned counsel for the petitioner and have perused the material available on record.

So far as the submissions made regarding justification of petitioner's exoneration by the Inquiry Officer and acceptance by the disciplinary authority is concerned, the same cannot be made subject matter of the present writ petition at the stage when only a show cause notice has been issued to the petitioner by the disciplinary authority under Rule 32 of the Rules and, therefore, the submissions made in this regard do not call for any determination by this Court at this stage.

So far as the requirements of Rule 32 of the Rules is concerned, Rule 32 in so far as relevant, reads as under:-

"32. The authority to which appeal against an order imposing any of the penalties specified in rule 14 lies may, if no appeal has been preferred therefrom, of its own motion or otherwise, call for and examine the records of the case in a disciplinary proceeding held by an authority subordinate to it and after making further investigation, if necessary, revise (any order) passed in such a case and after consultation with the Commission where such consultation is necessary"

The only indication in the Rule is that the authority to which appeal against an order imposing any of the penalties specified in Rule 14 lies may call for and examine the record of the case in a disciplinary proceedings held by an authority subordinate to it and after making further investigation revise any order passed in such a case. The provision further requires affording an opportunity of hearing before imposing or enhancing a penalty.

Admittedly, the authority i.e. Inspector General of Police is the appellate authority qua the orders of the disciplinary authority i.e. the Superintendent of Police, Churu. The Inspector General of Police in his show cause notice has clearly indicated his having gone through the record of the inquiry and coming to the conclusion that the order passed was not justified, which fulfills the requirements of Rule 32 of the Rules in so far as issuance of the show cause notice is concerned.

The submission regarding issuance of notice only in case a delinquent is found

guilty has been noticed only for rejection, inasmuch as, Rule 32 envisage imposition and/or enhancing a penalty which necessarily means that in case of exoneration from the charges also, a notice can be issued for 'imposing' the penalty.

The judgment in the case of Gautam Jain (*supra*) has no application to the facts of the present case, inasmuch as, the said case was decided after the final order was passed by the authorities under Rule 32 of the Rules and the case was not decided at the stage of show cause notice.

In view of the above discussion, there is no substance in the writ petition and the same is, therefore, dismissed.