

**(1999) 08 RAJ CK 0017**  
**In the Rajasthan High Court**  
**Case No : Writ Petition No. 3296 of 1990**

Bhanamal and Company (P) Ltd.

APPELLANT

Vs

Authority appointed under Rajasthan Shops and Commercial Establishments Act

RESPONDENT

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**Date of Decision :** 17-08-1999

**Acts Referred:**

Rajasthan Shops and Commercial Establishments Act, 1958 — Section 24A(2), 28A

**Citation :** (2000) 85 FLR 768 : (2000) 3 LLJ 1484 : (2000) WLC 271

**Hon'ble Judges :** Asok Parihar, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Ashok Parihar, J.—Petitioner has challenged the order dated September 30, 1988 passed by Authority under Rajasthan Shops and Commercial Establishments Act, Alwar by which while setting aside the termination of services of respondent No. 2 (hereinafter referred to as the concerned employee) the Authority has directed the petitioner to reinstate the concerned employee with continuity of service and full back wages.

2. After hearing counsel for the parties, I have carefully gone through the material on record and also the impugned order of the Authority.

3. The concerned employee was working with the petitioner since 1947. Subsequently, he was transferred to Alwar Branch in the year 1955. His services were terminated on January 7, 1986. The concerned employee filed an application u/s 28(A) of the Rajasthan Shops and Commercial Establishments Act, 1958 before the Authority on January 24, 1986.

4. After taking evidence of both the sides, the authority came to a finding of fact that before terminating the services of the concerned employee, neither any enquiry was held nor any opportunity was given to the concerned employee for defending himself.

Under Rule 24(A)(2) of the Act of 1958, it is mandatory for the employer to hold an enquiry and give a reasonable opportunity to the concerned employee. The same is quoted here as under:

"Rule 24(A)(2): No order of dismissal or discharge on ground of misconduct shall be made except an enquiry in which the employee concerned has been informed in writing of the misconduct alleged against him and is given a reasonable opportunity of being heard in respect of that misconduct."

5. Admittedly, the services of the concerned employee were terminated on the ground of misconduct and there is also no dispute that no enquiry whatsoever was held against the concerned employee. Under such circumstances, in view of clear provisions of the Act of 1958, I find no error or illegality in the order of the Authority so as to call for any interference of this Court in the present matter.

6. Accordingly, I find no merit in the writ petition and the same is dismissed. However, the petitioner shall be free to take any appropriate action against the concerned employee in accordance with law. There will be no order as to costs.