

---

**(2011) 01 RAJ CK 0046**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 4531 of 1997**

Bhanwar Lal Khatik

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

---

**Date of Decision :** 04-01-2011

**Acts Referred:**

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

**Citation :** (2011) 01 RAJ CK 0046

**Hon'ble Judges :** Mohammad Rafiq, J

**Bench :** Single Bench

**Final Decision :** Allowed

---

## Judgement

Mohammad Rafiq, J.—This writ petition has been filed by Petitioner Bhanwar Lal Khatik against order of penalty dated 23.10.1992.

2. Learned Counsel has argued that Petitioner submitted reply to charge-memo dated 18.08.1992 on 28.09.1992 because he was given time to file reply up-to 30.09.1992. Reply was received by disciplinary authority on 03.10.1992. Disciplinary authority passed order belatedly as on 23.10.1992, yet he did not take into consideration any of the arguments made by Petitioner in his reply. Precise argument that was raised in reply to notice and reiterated in this writ petition, is that negligence in not filing charge-sheet in time and allowing limitation period to expire in eight cases referred to in charge-memo, was basically on part of predecessor of Petitioner Shri Pukh Raj, Circle Inspector, against whom also charge memo under Rule 17 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 was issued. This negligence could not be attributable to Petitioner because neither those files were given in charge to him nor any such mention was made in inspection report by Circle Officer when he inspected the Police Station on 23.07.1992. In substance, assertion that is made by Petitioner is that in fact those files were never handed over to him and that he was completely unaware with regard to those files because those files were already with disciplinary authority in connection with disciplinary

proceedings against predecessor of Petitioner Shri Pukh Raj. Petitioner has specifically asserted these facts in Para 3 and 5 of writ petition.

3. Shri M.F. Baig, learned Deputy Government Counsel appearing on behalf of Respondents, opposed writ petition and submitted that so far as reply to charge-memo is concerned, same was received in office of Respondent No. 3 on 03.10.1992 but the last date for submitting reply was given to the Petitioner was 30.09.1992 and therefore reply received after date so fixed could not be considered, because impugned order had already been drawn by them on that last date i.e. 30.09.1992, although formally it was issued on 23.10.1992. Learned Counsel submitted that even if those files were not physically handed over to Petitioner, it was his duty to have verified from records soon after he joined as S.H.O., Police Station, Nagaur, for ensuring that charge-sheet was filed in time.

4. Upon hearing learned Counsel for parties and perusing impugned order, I find that Respondents do not deny fact that reply to charge-memo was submitted by Petitioner and was received by them on 03.10.1992 i.e. much before impugned order was passed by them on 23.10.1992. If that were the only issue, probably this Court would have considered it appropriate to remand the matter but in present case there is another angle to the matter that in fact negligence for not filing challan within limitation period was attributable on the part of predecessor of Petitioner, namely, Pukh Raj, C.I.; he was already issued a charge-memo under Rule 17 of Rules of 1958. Petitioner has asserted in Para 3 of writ petition which fact Respondents have not denied, that when he was handed over charge files of those eight cases were not entrusted to him. This fact Petitioner has demonstrated from inspection report prepared by Circle Officer dated 23.07.1992 and entry made with regard thereto was made in Rojnamcha-aam on 24.07.1992 at No. 1056. Reading of inspection report also does not indicate any reference to any of these eight files. Allegation against Petitioner thus apparently is factually unfounded. In the circumstances, impugned order awarding penalty of stoppage of one grade increment of Petitioner for a period of three months even though a minor nature of penalty, cannot be sustained.

5. In result, this writ petition is allowed. Impugned order dated 23.10.1992 is set-aside. Petitioner is held entitled to all consequential benefits. Compliance of order be made within a period of three months from the date of receipt of copy of this order by Respondents.