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**(1980) 01 RAJ CK 0003**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 1585 of 1975**

Dr. G.P. Sharma

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

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**Date of Decision :** 29-01-1980

**Acts Referred:**

Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 — Rule 34

**Citation :** (1980) WLN 252

**Hon'ble Judges :** G.M. Lodha, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

G.M. Lodha J.

1. Dr. G.P. Sharma has filed this writ petition being aggrieved from the order of the stoppage of two grade increments with cumulative effect, imposed upon him by the Government by letter dated 3-1-70. He filed review application u/s 33 of the Rajasthan Civil Services (Classification, Control and Appeal Rules) (hereinafter called, 'the CCA Rules') and after the same was rejected, he invoked the powers of the Government under rule 34 of these very rules and with that end in view, filed second review application.

2. The facts in brief giving rise to this case centers round an incident of the alleged illegal gratification of Rs. 20/- demanded by Dr. Sharma for which a trap was done by the Anti-corruption Department on 10-10-61. The case of Ajit Singh, who filed complaint before the Anti-corruption Department was that Dr. Sharma was working as Medical Jurist at the Civil Hospital, Sriganganagar. Ajit Singh approached for examination of injuries which he received at the hands of another party and for obtaining a certificate since it was a medico legal case. It is alleged that Dr. Sharma demanded Rs. 50/- as bribe but later on, agreed to accept Rs. 20/ As Sri Singh was not agreeable, he made a complaint to the Deputy Suprin tendent of Police. Anti Corruption Department; Sriganganagar for

arranging a trap Accordingly, a trap was at ranged and the signed two currency notes of the denomination of Rs. 10/- were given to Ajit Singh who went to Dr. Sharma and on the fixed signal. The Deputy Superintendent of Police raided the place and asked Dr. Sharma to produce the notes. The tainted money was recovered from above the table and seized. The plea taken by Dr. Sharma was that he could have taken fees for examining the injuries of Ajit Singh for giving him a certificate. A reference was made to the Director of Medical and Health Science, Rajasthan Jaipur, regarding the doctors competence to charge fees from a person at his residence for his injuries and the reply was not specific. It was mentioned that no fees has been prescribed and the Medical Jurist could charge double the fees chargeable by Civil Assistant Surgeon, Class II A Civil Assistant Surgeon of Glass II was entitled to a fee of Rs. 3/-. On the above allegation, an enquiry was conducted and Dr. Sharma was found guilty.

3. Mr. Mridul, appearing for the petitioner Jim submitted before this Court that this was a case of no evidence and Ajit Singh, was aggrieved because his client did not agree to give him a fabricated Medical Certificate of serious injuries whereas in fact, he bad simple injuries only. Ad effort was made to take this Court in (he evidence produced before the Departmental Authorities but during the course of the arguments, it appeared that it is not necessary to consider the case on merits because the basis and initial prayer of the petitioner was for consideration of his review application pending before the Government under rule 34 of the Rules.

4. It was argued by Mr. Mridul that review application was filed by his client on 21-8-70 and inspite of the fact that almost nine years have passed, no decision has been given on this application. It was pointed out that this being the main grievance, the writ was admitted after a show-came notice was given to the respondent and yet no steps were taken by the respondent No. 1 and 2 to get this matter decided one way or the other. From a perusal of the order sheet, it appears that at the time of consideration of the stay application, the Court mentioned that it was expected that the review petition shall be decided At an early date. However, all these expectations have been belied and the matter remains where it was prior to the filing of the writ application.

5 Respondents No. 1 and 2 have not filed any reply to rebus the allegations nor any explanation has been given why this review application has been allowed to remain, pending for almost a decade.

6. A perusal of rule 34 shows that it empowers the Governor of the State to review any order imposing penalty on any Government servant. The powers under rule 34 are very wide. Rule 34 is as under.

34. Governor's powers to review Notwithstanding anything contained in these rules, the Governor may, on his own motion or otherwise, after calling for the records of the case, review any order which is made or is appealable under these rules or the rules repealed by rule 35 and, after consultation Is necessary;.

- (a) confirm, modify or set aside the orders;
- (b) Impose any penalty or set aside, reduce, confirm or enhance the penalty imposed by the order;
- (c) remit the case to the authority which made the order or to any other authority directing such further action or inquiry as he considers power in the circumstances of the case; or
- (d) pass such other orders as he deems fit:

Provided that ... ..

It is really a sad commentary on the functioning of the respondent No. 1 and (sic) that for a long period of one decade, no order has been passed on the review application and even now, it has not been shown to the court whether the matter is receiving consideration and if so, at what stage. The show (sic) cause notice issued by this Court before admission should have put the respondents on guard and a vigilant administration not only could have but should that remedied the grievance of the petitioner on this score. It is unfortunate slightest the Court's precious time is taken for this avoidable litigation as the Slightest care and caution on the part of respondent No. 1 and 2 would have been enough to get the matter decided one way or the other.

7. It is not the case of respondents that under the rule of law, they can simply ignore the review petition and put it in the cold storage. That being so, when the statutes provide a remedy, It is the duty of the State functionaries to perform their duty by considering the review petition and decide it in a detached and impartial manner on the basis of the material available on the record. This is the least which is expected and the failure of the respondents No. 1 and 2 to do so is a failure of a legal duty which affects the rights of a civil servant in the State. A period of about 10 years not being enough to get the review application considered and decided by respondent No. 1 and 2 certainly is a matter of concern. It is on account of this that many intervening factors have come in as submitted by the petitioner, namely, the non-consideration of his case qua the other respondents and it may further create complications in case on merits there is the remotest chances of success of review application for which I refrain from expressing any opinion one way or the other.

8. I am, therefore, of the opinion that this is pre-eminently an appropriate case where the petition should be accepted and a direction should be issued to respondent No. 1 to consider and decide the review application of the petitioner under rule 34 of the CCA Rules within a period of six months from today. The result of decision should be communicated to the petitioner.

9. The writ application, therefore, succeeds as indicated above with costs to be paid by respondent No. 1 only. So far as the other respondent are concerned, there will be no order as to costs.