

**(2013) 10 RAJ CK 0064**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 360 of 2003**

Jugal Kishore Gajja

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

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**Date of Decision :** 29-10-2013

**Acts Referred:**

**Citation :** (2013) 4 CDR 1921

**Hon'ble Judges :** Pratap Krishna Lohra, J

**Bench :** Single Bench

**Advocate :** Pramendra Bohra, for the Appellant; M.A. Siddiqui, Addl. Counsel for the State, for the Respondent

**Final Decision :** Allowed

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## Judgement

Pratap Krishna Lohra J.

1. By the instant writ petition, the petitioner has called in question impugned order dt. 29.5.1995 (Annex. 3) passed by the Deputy Conservator of Forest, Pali, whereby pursuant to the inquiry under Rule 17 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short, "the Rules of 1958"). The petitioner was found guilty of all the imputations levelled against him and was penalized by ordering withholding of two annual grade increments without cumulative effect. The Disciplinary Authority, while indicting the petitioner for the alleged omissions, has concluded that the petitioner was negligent in discharge of his duties, which has caused loss to the employer, and therefore, a sum of Rs. 732/- is liable to be recovered from him. The brief facts of the case are that, while working as Range Forest Officer at Sojat, the petitioner was served with a memorandum dt. 25th May, 1994 under Rule 17 of the Rules of 1958 containing in all five imputations. In response to the said memorandum, the petitioner submitted his explanation on 1st February, 1995. The disciplinary authority thereafter considered the explanation tendered by the petitioner and by the impugned order dt. 29.5.1995 inflicted the penalty of withholding of two annual grade increments without cumulative effect and recovery of a sum of Rs. 732/-.

Aggrieved by the punishment order of the disciplinary authority, the delinquent preferred an appeal before the appellate authority, but the said effort of the delinquent has also proved to be abortive. The petitioner has assailed the impugned orders on various counts.

2. Mr. Pramendra Bohra, the learned counsel for the petitioner, has urged that the explanation tendered by the petitioner has not been considered properly by the disciplinary authority while passing the impugned order. According to the submission of Mr. Bohra, Rule 17 of the Rules of 1958 requires meaningful consideration of the defence put-forth by the delinquent and after considering the same, it is imperative for the disciplinary authority to pass a well reasoned speaking order showing indictment of the delinquent for the imputations attributed to him. Thus, the sum and substance of the submission of Mr. Bohra is that the order impugned is not in conformity with the provisions of Rule 17 of the Rules of 1958 and the same is liable to be interfered with. Mr. Bohra further submits that even the appellate authority has not examined the matter from that angle and has simply concurred with the findings and conclusions of the disciplinary authority.

3. Per contra, Mr. Siddiqui, learned Addl. Govt. counsel, has strenuously urged that the imputations made against the petitioner were grave and serious and the disciplinary authority, on considering the matter in its entirety, has found that all the allegations are proved against him and that being so the impugned order has come into offing, which requires no interference. Mr. Siddiqui has further urged that unlike enquiry under Rule 16 of the Rules of 1958 the procedure of inquiry under Rule 17 of the Rules of 1958 is in the nature of summary proceedings and the disciplinary authority is simply required to consider the explanation tendered by the delinquent officer and thereafter record its conclusions about the proof of delinquency and issue the order of punishment on the basis of gravity and magnitude of the misconduct. Thus, in these circumstances, Mr. Siddiqui submits that no interference with the impugned order is called for. Mr. Siddiqui has also submitted that the order impugned has been upheld by the appellate authority, and therefore, at this stage scope of judicial review is very much limited and no interference is called for.

4. I have heard the learned counsel for the parties, perused the order impugned as well as the appellate order.

5. A glance at the impugned order makes it crystal clear that the disciplinary authority, after reproducing the imputations made against the delinquent, has simply recorded its ipsi dixi finding that the charges are proved against the delinquent, and therefore, he is liable to be penalized. On a critical analysis of the impugned order, it is amply clear that the disciplinary authority has not considered the reply/explanation tendered by the delinquent officer properly and there is no whisper in the order indicating the meaningful consideration of the defence put forth by the delinquent officer. True it is, that in the matter of minor penalty, inquiry under Rule 17 of the Rules of 1958 is required to be conducted

summarily but as the same visits the delinquent with a penal order, it is required to be a self-containing speaking order and such a matter cannot be decided in a casual and cursory manner. On the face of it, the impugned order is not indicative of the fact that the defence of the delinquent was considered meaningfully and the disciplinary authority has recorded reasons for its conclusion about proof of delinquency against the petitioner. The appellate order, in this behalf, is also not a speaking order and the appellate authority has simply concurred with the findings and conclusions of the disciplinary authority.

6. In this view of the matter, in my considered opinion, the order (Annex. 3) passed by the disciplinary authority and the order (Annex. 5) by the appellate authority cannot be sustained and are liable to be quashed. The net result of the above discussion is that this writ petition is allowed. The impugned orders (Annexs. 3 & 5) are quashed and set-aside and the matter is remanded back to the disciplinary authority for considering the defence of the delinquent officer and affording him opportunity of personal hearing and for passing order afresh strictly in accordance with law. The disciplinary authority is also expected to pass a well reasoned speaking order. As the matter is old, it is desirable from the disciplinary authority to re-examine the matter and pass fresh order at the earliest, preferably within a period of three months from the date of production of certified copy of this order.

No order as to costs.