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**(2002) 08 RAJ CK 0005**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 1987 of 1998**

Pratap Singh

APPELLANT

Vs

Superintendent of Police and Others

RESPONDENT

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**Date of Decision :** 13-08-2002

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2003) 1 WLC 80 : (2002) 5 WLN 403

**Hon'ble Judges :** Sunil Kumar Garg, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Sunil Kumar Garg, J.—This writ petition under Article 226 of the Constitution of India has been filed by the petitioner on 3.6.1998 against the respondents with the prayer that by an appropriate writ, order or direction, the order dated 26.6.1995 (Annex. P/3) passed by the respondent No. 1 Superintendent of Police, Churu (Disciplinary Authority) by which the Disciplinary Authority found the petitioner guilty of the charge framed against him in the departmental enquiry under Rule 17 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (hereinafter referred to as "the CCA Rules") and thus, imposed the penalty of withholding of three annual grade increments without cumulative effect upon the petitioner, and further the order dated 4.9.1995 (Annex. P/5) passed by the respondent No. 2 Dy. Inspector General of Police, Bikaner Range, Bikaner (Appellate Authority) by which the appeal of the petitioner was dismissed and furthermore, the order dated 23.9.1997 (Annex. P/7) passed by the Dy. Secretary, Government of Rajasthan, Jaipur by which the review petition of the petitioner was dismissed, be quashed and set aside.

2. The case of the petitioner as put forward by him in this writ petition is as follows:

The petitioner is a Constable in the Police Department and while he was posted

as Constable at Police Station, Sardarsahar District Churu, he was served with a charge-sheet under Rule 17 of the CCA Rules vide show cause notice dated 29.4.1995 and the allegation in the charge-sheet against the petitioner was that on 17.3.1995 at 7.30 PM, he misbehaved with Prem Narian Vishnoi, retired Dy. S.P, after consuming liquor when he came to Police Station, Sardarsahar and thus, he took liquor while on duty and such act of the petitioner amounted to gross misconduct. A copy of the charge-sheet alongwith show cause notice dated 29.4.1995 is marked as Annex. P/1. The petitioner was asked to submit reply to the said charge-sheet within 15 days.

After receiving the said show cause notice alongwith charge-sheet Annex. P/1 dated 29.4.1995, a reply was submitted by petitioner before the respondent No. 1 Superintendent of Police, Churu (Disciplinary Authority) within the stipulated time and in that reply, the petitioner denied the allegations/charges levelled against him. A copy of the said reply running in three pages is marked as Annex. P/2.

Thereafter, the respondent No. 1 Superintendent of Police, Churu (Disciplinary Authority) through impugned order dated 26.6.1995 (Annex. P/3) imposed the penalty of withholding of three annual grade increments without cumulative effect upon the petitioner holding that the charge levelled against the petitioner has been fully proved.

3. The case of the petitioner is that without dealing with the grounds taken by the petitioner in the reply Annex. P/2, the Disciplinary Authority passed the impugned order Annex. P/3 dated 26.6.1995 and apart from this, in-fact it is a non-speaking order and no reasons whatsoever have been assigned in it by the Disciplinary Authority for holding the petitioner guilty of the charge levelled against him and thus, the impugned order Annex. P/3 is violative of the provisions of Rule 14 of the CCA Rules and furthermore, imposing punishment without assigning reasons is per se illegal and cannot be sustained.

4. The further case of the petitioner is that he preferred an appeal against the order of the Disciplinary Authority dated 26.6.1995 (Annex. P/3) before the respondent No. 2 Dy. Inspector General of Police, Bikaner Range, Bikaner (Appellate Authority), but the same was dismissed by the respondent No. 2 Appellate Authority through order Annex. P/5 dated 4.9.1995 without assigning any reason and thus, that order Annex. P/5 is also a non-speaking order.

The further case of the petitioner is that similarly, his review petition was also dismissed by the Dy. Secretary, Government of Rajasthan, Jaipur through order Annex. P/7 dated 23.9.1997.

Hence, this writ petition with the prayer as stated above and in this writ petition, the following two submissions have been raised:

(1) That alongwith the charge-sheet, statement of allegations has not been supplied to the petitioner.

(2) that all the three impugned orders Annex. P/3 dated 26.6.1995, Annex. P/5 dated 4.9.1995 and Annex. P/7 dated 23.9.1997 are non-speaking orders and no reasons whatsoever have been assigned in them and thus, they cannot be sustained and should be quashed and set aside.

No reply to the writ petition has been filed by the respondents. However, it has been submitted by the learned Counsel for the respondents that sufficient opportunity has been given to the petitioner as he himself filed the reply Annex. P/2 before the Disciplinary Authority and after considering his reply, the impugned order Annex. P/3 dated 26.6.1995 was passed by the Disciplinary Authority. Apart from this, this Court should not interfere in exercise of power under Article 226 of the Constitution of India with the findings of guilt recorded against the petitioner as well as the punishment awarded to the petitioner. Hence, the writ petition filed by the petitioner be dismissed.

5. I have heard the learned Counsel appearing for the petitioner and the \* learned Counsel appearing for the respondents and gone through the materials available on record.

Point No. 1

6. So far as the first argument that alongwith the charge-sheet statement of allegations has not been supplied to the petitioner is concerned, the petitioner in Para No. 2 of the petition has himself said that the charge sheet dated 29.4.1995 alongwith the memorandum is filed and marked as Annex. P/1 and from seeing Annex. R/1, it is very much clear that charge-sheet containing the charge and allegation was attached with the show cause notice dated 29.4.1995. Hence, first argument does not carry any weight and the same stands rejected.

Point No. 2

7. Annex. P/2 is the reply, which was filed by the petitioner before the Disciplinary Authority (respondent No. 1 Superintendent of Police, Churu) and that reply is running in three pages and in that reply, many submissions were made by the petitioner and the main submissions of the petitioner were that no medical of the petitioner was got conducted and that no report was entered in the Rojnamcha etc. of the effect that the petitioner misbehaved in a drunken condition with Prem Narian Vishnoi, retired Dy. S.P.

8. Annex. P/3 dated 26.6.1995 is the impugned order passed by the Disciplinary Authority (respondent No. 1 Superintendent of Police, Churu) in an enquiry under Rule 17 of the CCA Rules conducted against the petitioner.

9. From perusing Annex. P/3, it appears that the Disciplinary Authority after mentioning the charge levelled against the petitioner and the reply of the petitioner, in the heading "judgment" observed that perused the reply of the petitioner, record of the case and enquiry report of the SHO and looking to the facts disclosed during personal hearing by four witnesses pertaining to the incident dated 17.3.1995, it is well proved that the petitioner misbehaved with

Prem Narain Vishnoi, retired Dy. S.P. and thus, he imposed the punishment of withholding of three annual grade increments without cumulative effect upon the petitioner. This order Annex. P/3 does not controvert any of the submission raised by the petitioner in his reply Annex. P/2 nor does it say that the petitioner misbehaved with Prem Narain Vishnoi, retired Dy. S.P. in a drunken condition, though the charge against the petitioner was that on 17.3.1995 while he was in a drunken condition, he misbehaved with Prem Narian Vishnoi, retired Dy. S.P. Thus, the order Annex. P/3, in my considered opinion, is not a speaking order and no reasons whatsoever have been assigned in it for holding the petitioner guilty of the charge levelled against him.

10. Similarly, the order Annex. P/5 dated 4.9.1995 passed by the Appellate Authority (respondent No. 2 Dy. Inspector General of Police, Bikaner Range, Bikaner) is not a speaking order and no reasons have been assigned in it, except that the charge levelled against the petitioner is proved from the record. There is no discussion of any matter pertaining to the record and the appeal was dismissed.

11. The review petition of the petitioner was also dismissed through order Annex. 7 dated 23.9.1997.

12. The question for consideration is whether in the above facts and Circumstances, the impugned orders dated 26.6.1995 (Annex. P/3) and 49.1995 (Annex. P/5) can be sustained or not.

13. There is no doubt that the Enquiry Officer is not bound by the strict rules of law of evidence, but report of the Enquiry Officer must be a reasoned one and failure to do so renders the order of punishment illegal.

14. The order of punishment which is passed in quasi-judicial proceedings must contain some reasons. Mere recording of conclusions is not sufficient for compliance of the requirement of principles of natural justice as well as Rule 14 of the CCA Rules. Merely recording one line conclusion that after going through the record, the charges levelled against the delinquent official are fully proved is not sufficient. The order must contain reasons, which could show application of mind and which could disclose mental application of the competent authority to the contents of the inquiry report and connected record. Apart from this, points raised by the delinquent official in the representation must be considered by the competent authority and good and sufficient reasons must be recorded as to why they were not being acted upon. In this respect, the decisions of this Court in *Ramdeo Singh v. R.S.R.T.C. and Ors.* WLR 1992 Raj. 696 and *Narain Singh v. State of Raj. and Anr.* 1992 (1) RLR 558 may be referred to.

15. Placing reliance on the above rulings, if the legality and propriety of the impugned orders Annex. P/3 and Annex. P/5 are examined, it clearly appears that the respondent No. 1 Superintendent of Police, Churu (Disciplinary Authority), who passed the order Annex. P/3 dated 26.6.1995, has mentioned in its charge as well as reply filed by the petitioner, but under heading "judgment"

no discussion was made by him and he merely recorded one line conclusion that after going through the reply of the petitioner, record of the case, inquiry report of the SHO and the facts disclosed by the four witnesses pertaining to the incident dated 17.3.1995, the charge levelled against the petitioner was fully proved. It does not controvert the submissions raised by the petitioner through his reply Annex. P/2 and it is not clear what documents he perused and on what basis he drawn the conclusion that the charge against the petitioner was proved. That order does not indicate any reason, which could show application of mind and which could disclose mental application of mind of Disciplinary Authority to the contents of the inquiry report and connected record. Thus, the order Annex. P/3 is not a speaking order and no reasons whatsoever have been assigned in it.

16. Apart from this, as stated above, the charge against the petitioner was that he misbehaved with Prem Narian Vishnoi, retired Dy. S.P. in a drunken condition, but the so-called findings of the Disciplinary Authority in the order Annex. P/3 nowhere state that the petitioner was found in drunken condition meaning thereby charge levelled against the petitioner is not at all proved.

17. Similarly, the order of the Appellate Authority (respondent No. 2 Dy. Inspector General of Police, Bikaner Range, Bikaner) Annex. P/5 dated 4.9.1995 is not a speaking order and no reasons whatsoever have been assigned in it.

18. The Hon''ble Supreme Court in so many cases has held that under Article 226 of the Constitution of India, this Court does not function as a Court of Appeal over the findings of the Disciplinary Authority, but where the findings are utterly perverse, the High Court can interfere with the same.

19. In the present case, since the findings of the Disciplinary Authority are perverse on the very face as the charge against the petitioner was that he misbehaved with Prem Narain Vishnoi, Dy. S.P. in drunken condition and the fact that he was in drunken condition has not been found proved by the Disciplinary Authority and not only this, the impugned orders under challenge are non-speaking orders and no reasons have been assigned in them and from this point of view also, they cannot be sustained and liable to be set aside.

20. For the reasons stated above, this writ petition deserves to be allowed and the impugned orders dated 26.6.1995 (Annex. P/3) passed by the respondent No. 1 Superintendent of Police, Churu (Disciplinary Authority), 4.9.1995 (Annex. P/5) passed by the respondent No. 2 Dy. Inspector General of Police, Bikaner Range, Bikaner (Appellate Authority) and 23.9.1997 (Annex. P/7) passed by the Dy. Secretary, Government of Rajasthan, Jaipur are liable to be quashed and set aside.

Accordingly, this writ petition filed by the petitioner is allowed and the impugned orders dated 26.6.1995 (Annex. P/3) passed by the respondent. No. 1 Superintendent of Police, Churu (Disciplinary Authority), 4.9.1995 (Annex. P/5) passed by the respondent No. 2 Dy. Inspector General of Police, Bikaner Range, Bikaner (Appellate Authority) and 23.9.1997 (Annex. P/7) passed by the Dy.

Secretary, Government of Rajasthan, Jaipur are quashed and set aside. No order as to costs.