

**(2010) 08 SHI CK 0097**  
**In the High Court Of Himachal Pradesh**  
**Case No : C.W.P. (T) No. 6781 of 2008**

Sh. Jagdish Chand

APPELLANT

Vs

Himachal Road Transport Corporation and Another

RESPONDENT

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**Date of Decision :** 24-08-2010

**Acts Referred:**

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 11, 14

**Citation :** (2010) 08 SHI CK 0097

**Hon'ble Judges :** Sanjay Karol, J

**Bench :** Single Bench

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## Judgement

Sanjay Karol, J.—There is no dispute that disciplinary proceedings were initiated and order of penalty imposed by Regional Manager, H.R.T.C. Hamirpur and the Managing Director, H.R.T.C. Shimla respectively. This is evident from Office Order dated 2.12.1998 (Annexure A-4) and Memorandum dated 29.1.2000 (Annexure A-7).

2. Disciplinary proceedings were initiated against the petitioner for being negligent and not complying with the directions issued by the superior authorities.

3. There is no dispute that the respondents have framed Regulations which are known as Himachal Road Transport Corporation (Class I-II-III and IV) Service Recruitment, Promotion and Certain Conditions of Service Regulations-1996. The relevant clause of the said Regulations reads as under:

S. No. Category of post Authority Nature of Authority Appellate competent to the penalty competent authority make in relation of impose appointment of Rule 11 the of the penalty. CCS(CC&A) Rules, 1965. 1. 2. 3. 4. 5. 6. "E" CLASS-III POSTS: General (i) to (iv) Div. General (First Part) Manager (v) to (ix) Manager Manager 1.Superintendent General Managing G-II Manager Director Personal Assistant. Superintendent (Audit) Superintendent (Stores) Chief Inspector. Foreman. Service Station Inch. Head Mechanic Station Supervisors (Dying Cadre) Tyre Inspectors F.I.P.Calibrators Video/TV Supervisors

4. There is no dispute that petitioner was serving as a Head Mechanic and the penalty imposed is major. Now the impugned order of penalty was passed by the Managing Director who himself is the appellate authority. The disciplinary proceedings stand vitiated for the reason that they were initiated by the authority not competent to do so and also for the reason that the order of penalty stands passed by the appellate authority.

5. The Apex Court in Surjit Ghosh Vs. Chairman and Managing Director, United Commercial Bank, and others, and 2001 (2) AWC 1293 (SC) in identical circumstances quashed the order whereby penalty was imposed by the appellate authority.

6. The decision relied upon by Mr. Adarsh Sharma, learned Counsel for the respondents in Government of A.P. and Another Vs. N. Ramanaiah, is not relevant for the simple reason that the facts in issue were absolutely different. The Apex Court was dealing with Rule 14(2) of Andhra Pradesh Civil Services (CCA) Rules, 1991 which is not para-materia with Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 or the Regulations in questions.

7. Hence the petition needs to be allowed and consequently the impugned order dated 29.1.2000 (Annexure A-7) is quashed. Petition stands disposed of.