
(2014) 11 MP CK 0038
In the Madhya Pradesh High Court
Case No : Writ Petition No. 7244/2014

Sudhir Tiwari

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 11-11-2014

Acts Referred:

Citation : (2014) 11 MP CK 0038

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : Umesh Gajankush, Learned Counsel, Advocate for the Appellant;
Neelam Abhyankar, Learned Counsel, Advocate for the Respondent

Judgement

Prakash Shrivastava, J.—Since the issue involved in the present matter is squarely covered by the Division Bench judgment and this aspect of the matter has not been disputed by counsel for the State, therefore, with consent the writ petition is heard finally at this stage.

2. The petitioner who is working as Inspector in the police department has challenged the charge-sheet dated 12.12.2013 issued by the Dy. Inspector General of Police for conducting the Departmental Enquiry.

3. The competency of the Dy. Inspector General of Police to issue the charge-sheet for conducting the Departmental Enquiry has been challenged by counsel for the petitioner on the ground that the issue in this regard has been settled by the Division Bench at Gwalior in W.P. No. 6206/2011(s) [Arun Prakash Yadav Vs. State of M.P. and others] by order dated 28.6.2013 wherein the Division Bench taking note of Regulation 228 of the Police Regulations, has taken the view that the charge-sheet can be issued to the Inspector 2 of police only by the Superintendent of Police.

4. The Division Bench in the matter of Arun Prakash Yadav (supra) has held as under :-

"19. It would be appropriate at this stage to decipher the real intent and purport of the Regulation 228 for finding out as to whether any other authority superior or inferior in rank to SP can also exercise the power of issuance of charge sheet against an officer subordinate in rank to SP. For convenience, the relevant extract of the Regulation 228 is reproduced below:-

228.D.E.- When and how held.- In every case of removal, compulsory retirement from service, reduction in rank, grade or pay or withholding of increment for a period in excess of one year a formal proceedings must be recorded by the Superintendent in the prescribed form, - setting forth]

- (a) the charge;
- (b) the evidence on which the charge is based;
- (c) the defence of the accused;
- (d) the statements of his witness (if any);
- (e) the finding of the Superintendent, with the reasons on which it is based;
- (f) the Superintendent's final order or recommendation, as the case may be."

20. A bare reading of Regulation 228 indicates that Superintendent alone has been mentioned as the authority to frame and issue a charge sheet in respect of major penalty or penalties which have the effect of 3 major penalties. The term "Superintendent" means the Superintendent of Police, which is evident from Regulation 32 which describes the SP as the head of the police force of his district. The Police Regulations do not prescribe the competence of any authority to issue a charge sheet in any other provisions except Regulation 228, which solely empowers the SP. This power of issuance of charge sheet is bestowed upon the SP in regard to all persons holding the ranks subordinate to that of the SP. By necessary implication, the provisions of Regulation 228 exclude all authorities, superior or inferior to the SP to issue a charge sheet to any police personnel holding the rank subordinate to that of SP. It can, thus, be safely held that for an Inspector of Police, which in rank is subordinate to SP, the sole competent authority to issue charge sheet is the SP under the Police Regulations, which exclusively govern the filed as held supra.

21. From the above discussion, it is crystal clear that no other authority except SP is empowered under the Police Regulations to institute disciplinary proceedings/issue charge sheet to an Inspector of Police."

5. The respondents have duly accepted the above Division Bench judgment of this Court and have also issued Circular (Annexure P/3) dated 25.4.2014 reiterating the law settled by this Court in the matter of Arun Prakash Yadav (supra) and directing the authorities to take action in terms of 4 Regulation 228 and the judgment of this Court.

6. Keeping in view the aforesaid aspect of the matter, the impugned charge sheet

dated 12.12.2013 issued by the Dy. Inspector General of Police cannot be sustained and is hereby set aside with liberty to the competent authority to issue a fresh charge sheet.

7. The writ petition is accordingly disposed of.

8. C.C. as per rules.