



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 3040/2024

Kamrudeen Khan S/o Shri Sumer Khan, Aged About 58 Years,
Resident Of VPO Kheda Mehmood District Alwar (Raj.) (Mobile
9256397627)

-----Petitioner

Versus

1. State Of Rajasthan, Through The Additional Chief Secretary, Home Department, Government Secretariat, Jaipur.
2. The Director General Of Police, Police Headquarter, Behind Nehru Palace, Lal Kothi, Jaipur.
3. The Inspector General Of Police, Bharatpur Range, Bharatpur.

-----Respondents

For Petitioner(s)	:	Mr. Tanveer Ahamad with Mr. Illyas Khan
For Respondent(s)	:	Mr. Munendra Singh Fauzdar for Mr. Somitra Chaturvedi, Dy.G.C.

HON'BLE MR. JUSTICE ANAND SHARMA

Order

19/02/2026

1. This writ petition has been filed by the petitioner challenging order dated 29.12.2023 issued by Inspector General of Police, Bharatpur Range Bharatpur, whereby, in exercise of powers under Rule 19(ii) of Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958, penalty of dismissal from service has been imposed upon the petitioner along with other ancillary directions.

2. Learned counsel for the petitioner submits that the petitioner was initially appointed on the post of Constable on 30.01.1987 and was further promoted on the post of Head Constable in the year 2006 and thereafter on the post of Assistant Sub-inspector in the year 2010 and lastly, he was further posted as Sub-Inspector of Police in the year 2018. Learned counsel for the petitioner submits that the petitioner was holding substantive post of Sub-Inspector of Police however, one notice dated 02.10.2023 was issued by the Additional Superintendent of Police, District Deeg requiring the petitioner to show cause in respect of one photo published at social media allegedly reflecting that the petitioner was in objectionable position with a female. Learned counsel for the petitioner also submits that the notice was duly replied by the petitioner on 03.10.2023 however, without conducting any enquiry whatsoever under Rule 16 of the Rules of 1958 on the basis of alleged preliminary enquiry, order dated 29.12.2023 has been passed in exercise of Rule 19(ii) of the Rules of 1958 to inflict penalty of dismissal from service.

3. Learned counsel for the petitioner submits that Rule 19 carves out an exception to the general rule relating to conducting detailed enquiry under Rule 16 and such exceptional power cannot be exercised in mechanical manner. Learned counsel submits that no justified reasons have been assigned for passing order dated 29.12.2023 while dispensing with regular enquiry and adopting the exceptional procedure contemplated under Rule 19(ii) of the Rules of 1958. Learned counsel submits that arbitrary exercise of power by the respondents under Rule 19 has caused serious prejudice to the petitioner, as he has been deprived of his right to

put forward his defence against unfounded and baseless allegations mentioned in impugned order dated 29.12.2023. Learned counsel for the petitioner relied upon the judgment of Hon'ble Supreme Court in the case of **Reena Rani Vs. State of Haryana & Ors.** reported in **2012 (10) SCC 215** and judgment of Coordinate Bench of this Court in the case of **Bihari Lal Gupta Vs. State of Rajasthan and Ors. reported in 2002 (1) WLC 752.**

4. *Per contra*, learned counsel for the respondents opposed the writ petition and submitted that order dated 29.12.2023 is a self explanatory order and bare perusal of the same would reveal that petitioner has committed heinous misconduct and has reflected inappropriate behaviour against a woman and his photo has also become viral on social media. Such conduct of the petitioner comes within the purview of moral turpitude and apparently tarnishes image of Police Department. The petitioner has misused his police powers, which is not otherwise expected from a Government official. He submits that prior to passing order dated 29.12.2023, the petitioner was granted opportunity of hearing by way of notice dated 02.10.2023 and preliminary enquiry was conducted, which resulted in conclusion that the petitioner is guilty of committing indecent offence against a woman and lowering down the image of the Department. Under these circumstances, this was a fit case for exempting regular enquiry under Rule 16 of the Rules of 1958.

5. Learned counsel emphasized that since, the petitioner by using his influence has won over the relevant witnesses, therefore, conducting a regular enquiry was not possible and if

conducted, would have resulted in empty formality yielding no fruitful reason.

6. Heard learned counsel for the parties and perused the record.

7. It is settled proposition of law that misconduct committed by an employee may be howsoever heinous but he has got minimal right to defend himself in a regular enquiry. Rule 19 is apparently an exception to the general rule which reads as under:

"19. Special procedure in certain cases:

Notwithstanding anything contained in rules 16, 17 and 18,

(i). where a penalty is imposed on a Government servant on the ground of conduct which has led to him conviction on a criminal charge; or

(ii) where the Disciplinary Authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to follow the procedure prescribed in the said rules; or

(iii) Where the Governor is satisfied that in the interest of the security of the State, it is not expedient to follow such procedure, the disciplinary Authority may consider the circumstances of the case and pass such orders as it may deems fit:

Provided that the Commission shall be consulted before passing such orders in any case in which such consultation is necessary.

Note: *If any question arises whether it is reasonably practicable to give any person an opportunity of showing cause under clause (2) of Article 311 of the Constitution, the decision thereon of the authority empowered to dismiss, or remove such person or to reduce him in rank, as the case may be, shall be subject to only one appeal to the next higher authority. "*

8. Bare perusal of Rule 19(ii) would make it clear that the respondents are required to record justified reasons so as to show that under the exceptional circumstances, it was not at all possible to conduct a regular enquiry. In the instant case, it appears that

the competent authority was swayed away by the news published in newspaper and message circulated on social media. Only on the basis of such media reports, it was assumed by the disciplinary authority that conducting regular enquiry under Rule 16 would be an empty ritual against the petitioner. Thus, it is reflected from order dated 29.12.2023 that merely on surmises and conjectures, decision was taken by the disciplinary authority to dispense with the regular enquiry.

9. It is also settled that in order to maintain discipline, the respondent-Department is empowered to penalize an employee in proportion to his misconduct, yet such power is neither unbridled nor unfettered and is subject to the procedure contemplated under disciplinary rules. The right of defence, which is considered to be constitutional and statutory right of an employee against the allegations leveled against him, cannot be taken away in arbitrary manner and an exercise under Rule 19, which is an exception to the general rule, cannot be undertaken in quite mechanical and casual manner.

10. In the case of **Reena Rani (supra)**, the Hon'ble Supreme Court, after considering the constitutional bench judgment in the case of **Union of India & Anr. Vs. Tulsi Ram Patel 1985 (3) SCC 398** as well as the judgment of **Jaswant Singh Vs. State of Punjab 1991 (1) SCC 362** has observed that the decision to dispense with the departmental enquiry cannot be rested solely on *ipse dixit* of the concerned authority. When the satisfaction of the concerned authority is questioned in a court of law, it is incumbent on those authorities to show that the

satisfaction is based on certain objective facts and is not an outcome of whims and fancies of the authorities.

11. In the case of **Bihari Lal Gupta (supra)** where the exercise of Rule 19 was bereft of any cogent reasons, Coordinate Bench of this Court quashed the order passed under Rules 19 (ii) of the Rules of 1958.

12. This Court in the case of **Mohan Singh Vs. State of Rajasthan & Anr. reported in 2026 Live Law 15 Raj.** has observed and held as under:

" 8. It is not disputed in the instant case that prior to passing impugned order, preliminary enquiry has been conducted by the respondent-Department and the reasons which have been assigned in the penalty order dated 18.12.2006 are that as the absconded accused were facing the charge of committing grave offence of loot, therefore, conducting regular enquiry under the Rules of 1958 would not be feasible, hence, it would be proper to exercise powers under Rule 19 (2) of the Rules of 1958. Such reasons assigned in the penalty order for dispensing with enquiry are neither reasonable, nor justifiable. Merely, the nature of the offence committed by the accused, who escaped from the custody of the petitioners cannot be a determining factor for exercising powers under Rule 19 of the Rules of 1958.

10. Even otherwise the language of impugned penalty order would reveal that the order has been passed simply on the basis of surmises and conjectures where it has been mentioned that the circumstances of real incident must be in the knowledge of the petitioners and in case, there was any such doubt in the mind of the competent authority, the proper course would have been to be conduct regular enquiry for arriving at just conclusion after affording proper opportunity of defence to the petitioners.

11. In similar circumstances, this Court in the case of **Naresh Pal Devaniya (Supra)** has observed as under:-

"14. The reasons recorded in order dated 23.03.2021 would also reveal that a disciplinary authority has prejudged the guilt of the petitioner even before the trial has taken place. Thus, it is clear that the decision for dispensing with the inquiry is based upon mere surmises and conjectures; and cannot be said to be a judicious decision.

15. More so, under the circumstances, where the complainant herself has entered into a compromise with the petitioner and appeared before this Court through her counsel in S.B. Criminal Miscellaneous (Petition) No.3245/2021. Only on the basis of no objection tendered by her, the FIR in question was quashed by this Court. Thus, it was clear that the allegations leveled in FIR could not have been taken at its face value to take such a drastic action of dismissing the petitioner from services without holding the regular departmental inquiry.

16. It is a settled proposition of law that the allegations of committing crime may be howsoever heinous in nature, yet the accused/delinquent has constitutional rights to defend himself and such defence can be put forward by him only in regular inquiry. But in the instant case, in quite arbitrarily and illegal manner, ignoring the relevant Rules, the respondents have deprived the petitioner of his legitimate and valuable right of hearing and putting forward his defense.

17. In the case of **Tarsem Singh (supra)** the Hon'ble Supreme Court has observed as under:

"10. It is now a well-settled principle of law that a constitutional right conferred upon a delinquent cannot be dispensed with lightly or arbitrarily or out of ulterior motive or merely in order to avoid the holding of an enquiry. The learned counsel appearing on behalf of the appellant has taken us through certain documents for the purpose of showing that

ultimately the police on investigation did not find any case against the appellant in respect of the purported FIR lodged against him under Section 377 IPC. However, it may not be necessary for us to go into the said question.

14. In view of the fact that no material had been placed by the respondents herein to satisfy the Court that it was necessary to dispense with a formal enquiry in terms of proviso (b) appended to Clause (2) of Article 311 of the Constitution of India, we are of the opinion that the impugned orders cannot be sustained and they are set aside accordingly. The appellant is directed to be reinstated in service. However, in view of our aforementioned findings, it would be open to the respondents to initiate a departmental enquiry against the appellant if they so desire. Payment of back wages shall abide by the result of such enquiry. Such an enquiry, if any, must be initiated as expeditiously as possible and not later than two months from the date of communication of this order.

11. We have noticed hereinbefore that the formal enquiry was dispensed with only on the ground that the appellant could win over aggrieved people as well as witnesses from giving evidence by threatening and other means. No material has been placed or disclosed either in the said order or before us to show that subjective satisfaction arrived at by the statutory authority was based upon objective criteria. The purported reason for dispensing with the departmental proceedings is not supported by any document. It is further evident that the said order of dismissal was passed, inter alia, on the ground that there was no need for a regular departmental enquiry relying on or on the basis of a preliminary enquiry. However, if a preliminary enquiry could be conducted, we fail to see any reason as to why a formal departmental enquiry could not have been initiated against the appellant. Reliance placed upon such a preliminary enquiry without complying with the minimal requirements of the principle of natural justice is against all canons of fair play and justice. The appellate

authority, as noticed hereinbefore, in its order dated 24-6-1998 jumped to the conclusion that he was guilty of grave acts of misconduct proving complete unfitness for police service and the punishment awarded to him is commensurate with the misconduct although no material therefor was available on record. It is further evident that the appellate authority also misdirected himself in passing the said order insofar as he failed to take into consideration the relevant facts and based his decision on irrelevant factors."

18. *This Court in the case of **Satyendra Singh (supra)** has dealt with the extent of subjective satisfaction under Rule 19(2) of the Rules, 1958 and has held as under:*

"(7) Having taken note of the facts and law as above,, this Court is satisfied that the order has been passed without subjective satisfaction and there was no independent material to justify for dispensing with the regular enquiry as envisaged under Rule 19(2) of the Rules of 1958. The dispensation of the regular enquiry could not be done on the whims and fancies of the officers, special when preliminary enquiry has been made a basis for passing of the order impugned. In view of the above, this writ petition is allowed. The punishment order impugned dt. 31.01.2007 as well as the appellate order dt. 03.10.2007 are hereby quashed & set aside and it is directed that the petitioner shall be reinstated in service forthwith with all monetary benefits as to pay and allowances etc. applicable to him from the date of his dismissal. Needless to say that it would be open for the department, if so advised, notwithstanding the lapse of time to proceed further. The compliance of this order shall be made by the respondents within one month from the date of submission of certified copy of this order in their office. No costs."

19. *This Court is satisfied that the Appellate Authority has also failed to properly consider the grounds of appeal whereas, as per Rule 30*

of Rules, 1958, the Appellate Authority is under an obligation to consider each and every relevant ground raised by the delinquent in his memo of appeal and to pass speaking order after considering such grounds; but in the instant case, although the fact with regard to quashing of FIR in question was placed on record before the Appellate Authority by the petitioner and such fact has also been taken note of by the Appellate Authority in its order dated 09.09.2021, yet for no justified reason, the Appellate Authority has not given any finding in the appellate order in this regard."

13. In the light of above discussion, this Court is of the considered opinion that the order dated 29.12.2023 has been passed by the disciplinary authority in utter violation of Article 311 of the Constitution of India and in quite arbitrary manner, instead of conducting regular enquiry, an exceptional provision has been resorted to without there being any justified reason for doing so.

14. Consequently, this writ petition stands allowed. Order dated 29.12.2023 passed by the Inspector General of Police, Bharatpur Range, Bharatpur is hereby quashed and set-aside.

15. It is informed that during the pendency of the writ petition, petitioner has otherwise attained the age of superannuation on 30th May, 2025. Therefore, it is held that the petitioner shall be treated as in service up to the date of his retirement and his pay fixation shall be made notionally from the date of dismissal to the date of retirement and accordingly all the consequential benefits shall be granted to the petitioner.

16. However, it is made clear that since the order dated 29.12.2023 has been quashed by this Court on account of not following the procedure of regular enquiry contemplated under Rule 16 of the Rules of 1958 therefore, mere quashing of such



order would not preclude the respondent-Government from initiating regular enquiry against the petitioner, if so advised in accordance with law.

17. Pending application(s), if any, shall stand disposed of.

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