

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 5012/2022

URN: CW / 9664U / 2022

Abdul Rashid Siddiqui S/o Shri Abbas Ali, Aged About 72 Years,
Resident Of Payagh Ka Mohalla, Ward No. 2, Near Mastan Shah
Maszid, Jhalawar.

----Petitioner

Versus

1. State Of Rajasthan, Through Director General Of Police,
Police Headquarter, Lal Kothi, Jaipur.
2. The Inspector General Of Police, Kota Range, Kota.
3. The Superintendent Of Police, Bundi.

----Respondents

For Petitioner(s)	:	Mr. H.V. Nandwana with Mr. Yashvardhan Nandwana Mr. G.V. Chauhan
For Respondent(s)	:	Mr. Somitra Chaturvedi

HON'BLE MS. JUSTICE REKHA BORANA

Order

30/06/2026

1. The present petition has been filed with the following
prayers:

*"It is therefore, most respectfully prayed that this
Hon'ble Court may kindly be pleased to:*

*a) accept and allow the present Writ Petition filed by
the Petitioner;*

*b) quash and set aside order dated
12.01.2022/17.01.2022 passed by the respondents;*

*c) respondents may kindly be directed to release
entire pension and gratuity of the petitioner from the
date of retirement of the petitioner with effect from
31.12.2009 along with arrears of the same with
interest @ 18% per annum.*

*d) Respondents may kindly be directed to make
payment of 300 days leave encashment to the
petitioner along with interest @ 18% per annum from*

the date of retirement of the petitioner till actual payment of the same to the petitioner.

e) Heavy and exemplary cost may kindly be imposed on the respondents and the same may kindly be awarded to the petitioner as the respondents forced the petitioner to file the writ petition."

2. An application has been filed on behalf of the petitioner with a prayer that the present petition be decided in light of the judgment passed by a Co-ordinate Bench of this Court in ***Ramjilal Jangid Vs. Rajasthan State Road Transport Corporation and Ors.; S.B. Civil Writ Petition No.6194/2021*** (decided on 11.05.2026)(Annex.-A/1).

3.1 Learned counsel for the petitioner submits that in ***Ramjilal Jangid*** (Supra), the Court specifically observed that before passing an order of withholding/withdrawal of pension, application of mind by the Authority concerned is a must. Therein, the Court observed that the exercise of discretion cannot be mechanical or automatic on the sole pretext that a conviction has been recorded.

3.2 Counsel submits that in the present matter too, the principles of natural justice have not been followed in so far as, before passing of the order impugned, no opportunity of hearing was granted to the petitioner. No notice, whatsoever, was served on the petitioner calling upon to show cause, as to why he need not be punished.

4. On merit of the order impugned, Counsel submits that the offence for which the petitioner had been convicted is not of such a serious nature that action under Rule 7 of the Rajasthan Civil Services (Pension) Rules, 1996 (for short "the Rules of 1996") was called for. The punishment of the withdrawal of complete 100% of the pension is totally disproportionate.

5. Learned counsel for the respondent-Department, while trying to distinguish the judgment passed in ***Ramjilal Jangid*** (supra), submitted that therein, it is the Rajasthan State Road Transport Corporation Employees' Pension Regulations, 1989 (for short 'the Regulations of 1989') which were under consideration of the Court whereas, in the present matter, the order impugned has been passed in terms of the Rules of 1996. As per Rule 7 of the Rules of 1996, the Appointing Authority, at the directions of His excellency the Governor, is competent to withhold or withdraw the pension, in complete or part thereof, if the pensioner is convicted of a serious crime or is found guilty of grave misconduct. Admittedly, the petitioner was convicted for the offences under Section 120-B IPC and Sections 7 r/w 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988. The order impugned clearly records a finding of the competent Authority to the effect that the crime was of a serious nature and hence, the order impugned is totally in accordance with law.

6. Heard the counsels. Perused the order impugned as well as the judgment passed in ***Ramjilal Jangid's*** (Supra) case.

7.1 Although in ***Ramjilal Jangid*** (Supra) the Regulations of 1989 were under consideration of the Court, but then, the provision of Section 4 of the said Regulations is *para materia* to Rule 6 and 7 of the Rules of 1996, and hence, in essence, the factual aspect remains the same.

7.2 In ***Ramjilal Jangid*** (Supra), the Court, while relying upon the Division Bench Judgment in ***Rajasthan State Road Transport Corporation & Others Vs. Shri Ram Yadav*** reported

in **1995(3) WLC (Raj.) 16** (decided on 09.05.1995) and while considering the fact that the order of withdrawal of pension was passed without providing any opportunity of hearing to the petitioner therein, observed and held as under:

*"19. This Court also finds considerable force in the contention advanced by the learned counsel for the petitioner regarding violation of principles of natural justice. It is also settled proposition of law that pension is not a bounty but a valuable statutory right earned by an employee after rendering long years of service. Any order resulting in deprivation or permanent withholding of pension undoubtedly entails serious civil consequences. **Therefore, unless specifically excluded by the statute, compliance of principles of natural justice is implicit before passing such an adverse order.** In the present case after perusing entire reply to the writ petition filed by the respondents, it becomes absolutely clear that admittedly no show cause notice was issued to the petitioner and no opportunity of hearing whatsoever was afforded before passing the impugned order dated 28.04.2021. The contentions of the respondents that grant of opportunity of hearing would have been an empty formality cannot be accepted in the facts and circumstances of the present case. **Even where conviction stands proved, the petitioner still had a valuable right to place mitigating circumstances before the authority for consideration regarding the nature and extent of penalty proposed under Regulation 4. The requirement of hearing was not an empty ritual but a substantive safeguard to ensure fair exercise of discretion by the authority.**"*

7.3 Applying the above ratio to the present matter, herein too, the petitioner has not been afforded any opportunity of hearing before passing of the impugned order.

8. Further, this Court is of the clear opinion that the offence for which the petitioner has been convicted cannot be termed to be a

crime of such a serious nature which can attract a punishment of withdrawal or withholding of the complete pension. In **Shri Ram Yadav** (supra), Hon'ble the Division Bench of this Court specifically held that the order must, on the face of it, show as to why the most serious penalty of removal from service, from out of the list of alternatives is chosen and why a less serious penalty has been considered to be inadequate. The impugned order, thus, deserves reconsideration.

9.1 This Court is of the above opinion, also for the reason of Rule 6(2) of the Rules of 1996, which provides as under:

"Where a pensioner is convicted of a serious crime by a Court of Law, action under sub rule(1) shall be taken in the light of the judgment of the court relating to such conviction."

9.2 The above provision clearly prescribes that action under sub rule (1) shall be taken in light of the judgment of the Court, relating to such conviction. Evidently, the said aspect has not been taken into consideration by the Authority while passing the order impugned.

10.1 In view of the above overall analysis, the present writ petition is **disposed of** while quashing order impugned dated 12.01.2022/17.01.2022 (Annex.-6).

10.2 The matter is remanded back to respondent no.2 i.e. the Inspector General of Police, Kota Range, Kota to reconsider the matter afresh in accordance with law. Before passing any order afresh, the Authority shall be under an obligation to serve a notice on the petitioner and provide adequate opportunity of hearing to him.

10.3 The Authority shall also be under an obligation to keep into consideration the nature of the crime for which the petitioner has been convicted and to ensure that the punishment imposed is in proportion to the said offence.

11. Stay application and pending application, if any, stand **disposed of.**

(REKHA BORANA),J

SHIVAM/14