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WP-3952-2016

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 17th OF AUGUST, 2026WRIT PETITION No. 3952 of 2016*LAJJA SHANKAR MISHRA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

.....
Appearance:

Shri Narinder Pal Singh Ruprah - Senior Advocate assisted by Shri
Ankit Mishra - Advocate for the petitioner.

Shri K.V.S. Sunil Rao - Panel Lawyer for the respondents/State.

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WITH

WRIT PETITION No. 5497 of 2016*LAJJA SHANKAR MISHRA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

.....
Appearance:

Shri Narinder Pal Singh Ruprah - Senior Advocate assisted by
Shri Ankit Mishra - Advocate for the petitioner.

Shri K.V.S. Sunil Rao - Panel Lawyer for the respondents/State.

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ORDER

Considering the similitude of the controversy and facts of both the petitions, they are being decided by this common order, however, for the sake of convenience, the facts of WP No. 3952/2016 are taken into consideration.



The petitioner has filed the present petition under Article 226 of the constitution of India, seeking the following reliefs:-

- "a. That, the Hon'ble Court may kindly quash the impugned order dated 30.09.07 passed by respondent No. 6, order dated 25.3.2008 passed by respondent No. 5, order dated 20.6.2013 issued by respondent No. 4 & order dated 18.6.15 by respondent No. 2 being illegal in the interest of justice.
- b. That, the Hon'ble Court may kindly to direct the respondents to consider the appeal within fixed time frame considering the grounds raised in this petition and pass a speaking order considering the petitioners case in the light of judgment passed in WA No. 533/2014 and other similar case and communicate the same to the petitioner.
- c. Any other appropriate writ or direction may also kindly be issued if warranted in facts and circumstance of the case.
- d. Costs may also kindly be awarded."

2. It is the case of the petitioner that the petitioner joined services as Sub- Inspector on 01/06/1983 and thereafter he was promoted to the post of Inspector on 17/02/2006 and further promoted to the post of DSP on 09/01/2015.

3. It is submitted that when the petitioner was posted in Police Station Bhagva district- Chhatarpur, a joint charge-sheet was issued to the petitioner on the direction of Superintendent of Police, Chhatarpur vide order dated 29.04.2006. It is submitted that the said charge sheet was issued to the petitioner as well as another Assistant Sub Inspector.

4. The departmental enquiry was completed and the enquiry officer found three charges to be unproved out of four charges and remaining one charge was found to be partially proved. So far as charges against ASI were concerned, all allegations were found to be untrue. Consequently, considering the enquiry report, the respondent No.6-Superintendent of Police vide order dated 30.09.2007 (Annexure P/1) has inflicted punishment of stoppage of one increment with cumulative effect against the petitioner,



however, exonerated the other ASI of the charges since not found proved.

5. The petitioner preferred an appeal against the said order before the DIG, which was rejected vide order dated 25.03.2008 (Annexure P/2). Being aggrieved by the order dated 25.03.2008, the petitioner preferred second appeal on 23.05.2008 (Annexure P/3) before the Inspector General of Police, however, despite repeated requests, the said appeal was not decided.

6. Thereafter, left with no other option, the petitioner made a representation to the Director General of Police on 09.05.2013 (Annexure P/5), however, the petitioner received a letter dated 20.06.2013 (Annexure P/6) issued by the Inspector General of Police, Sagar Zone, Sagar to the Superintendent of Police, Chhatarpur, informing that as per Regulation 270(1) of Police Regulation, the second appeal is not maintainable and consequently, the same was dismissed.

7. The petitioner filed a mercy petition before the respondent No.2, but the same was also dismissed vide order dated 18.06.2015 (Annexure P/7) on the ground of limitation, as the mercy appeal was filed by the petitioner after seven years of passing of the impugned order. Thereafter, petitioner filed an application for reconsideration of his case, but the same has not been decided and is still pending before the authority. Hence, this petition has been filed.

8. The respondents have filed reply contending that the petition is hopelessly barred by delay and laches. The impugned order was passed on 30.09.2007 and the appellate order on 25.03.2008 whereas the petitioner approached this Court after about eight years i.e. in 2016. Hence, the petition deserves to be dismissed on the ground of delay and laches.



9. It is submitted that a charge-sheet was issued to the petitioner vide order dated 29.04.2006, whereafter a regular departmental enquiry was conducted. The Enquiry Officer found three charges not proved and Charge No.4 proved and submitted his report dated 30.04.2007 (Annexure R-1). After receipt of the report, the petitioner was given an opportunity to submit his comments. Thereafter, the disciplinary authority, vide order dated 30.09.2007 (Annexure R-2), imposed the punishment of stoppage of one increment with cumulative effect.

10. It is submitted that during the departmental enquiry, the petitioner was afforded full opportunity to present his case, including the opportunity to examine and cross-examine witnesses, and was supplied the relevant documents relied upon by the prosecution. Thus, the principles of natural justice were duly complied with. The petitioner has neither alleged nor established that the enquiry was conducted in violation of the principles of natural justice.

11. It is submitted that being aggrieved by the punishment order, the petitioner preferred a departmental appeal before the Deputy Inspector General of Police, which was rejected vide order dated 25.03.2008 (Annexure R-3). The petitioner's contention that he preferred a second appeal and continued to submit reminders is of no consequence, as under Police Regulation 270(1), no second appeal is maintainable against the order of the appellate authority.

12. It is further submitted that the petitioner thereafter preferred a mercy appeal before the Director General of Police, which was rejected vide



order dated 18.06.2015 (Annexure R-4).

13. It is submitted that perusal of the impugned orders shows that the charge found proved against the petitioner was dealt with leniently by the disciplinary as well as by the appellate authority and only the punishment of stoppage of one increment with cumulative effect was imposed. Though such punishment is a major penalty, but considering the facts and circumstances of the case, the punishment cannot be said to be excessive or disproportionate. The impugned orders are well-reasoned and do not warrant any interference under Article 226 of the Constitution of India.

14. It is submitted that so far as the contention of the petitioner that the Superintendent of Police was not competent to initiate the disciplinary proceedings or impose the punishment is concerned, the Police Regulation 228 provides that formal proceedings may be recorded by the Superintendent of Police in cases involving removal, compulsory retirement, reduction in rank, grade or pay, or withholding of increment for a period exceeding one year. The punishment imposed in the present case was preceded by a charge-sheet and a regular departmental enquiry and was, therefore, duly imposed in accordance with the applicable provisions.

15. So far as the contention of the petitioner that the Superintendent of Police lacked competence under Rule 18(1) of the M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 (for short 'Rules of 1966') is concerned, it is submitted the departmental enquiry was initiated at the instance of the Deputy Inspector General of Police, who directed the Superintendent of Police to conduct disciplinary proceedings against the



petitioner. Thus, the requirement of Rule 18(1) of the Rules of 1966 has been substantially complied with.

16. It is submitted that in view of the aforesaid facts and circumstances, the petitioner has failed to make out any case warranting interference by this Hon'ble Court under Article 226 of the Constitution of India. The petition is misconceived and devoid of merit and, therefore, deserves to be dismissed.

17. It is submitted by the learned counsel for the petitioner that petitioner was subject to a departmental enquiry with another Assistant Sub Inspector vide charge sheet dated 29.04.2016. On conclusion of the departmental enquiry, the petitioner was found partially guilty of one of the charge and inflicted with the punishment of withholding of one increment with cumulative effect. It is submitted that the Superintendent of Police has inflicted the punishment vide impugned order dated 30.09.2007 (Annexure P/1). It is submitted that the Superintendent of Police neither competent nor having jurisdiction to pass such an order as the Schedule appended to Rules of 1966, the DIG is the appointing authority of ASI and SI (Non-Ministerial).

18. It is submitted that as per rule 12 (2) of the Rules of 1966, the punishment of major penalty can be inflicted by the authority not below the rank of the appointing authority, therefore, any punishment inflicted by the Superintendent of Police is also without jurisdiction. It is further submitted that the petitioner being aggrieved by the order dated 30.09.2017 (Annexure P/1) inflicting punishment had preferred an appeal, which was dismissed vide



order dated 25.03.2008 (Annexure P/2) by the Deputy Inspector General, Chhatarpur.

19. It is submitted that the petitioner had submitted a representation before the Inspector General of Police, which was also rejected vide order dated 20.06.2013 (Annexure P/6) holding that against the order passed in the first appeal second appeal is not maintainable.

20. It is submitted by the learned senior counsel that Regulation 270 provides for the powers of *suo motu* revision by the Inspector General of Police in case it is found that the punishment is not appropriate. Otherwise also, as per Regulation 270(2) of the Police Regulation, on an application filed by the aggrieved person, the authority can exercise the power of revision. Therefore, rejection of the representation of the petitioner only on the ground that the second appeal is not maintainable, is not tenable in the eyes of law, as the said representation ought to have been considered as a revision.

21. *Per Contra*, learned counsel for the respondents has submitted that as per Regulation 221, the Superintendent of Police is having power to inflict the punishment, which is provided under Police Regulations 214 to 247. Regulation 214(ii) provides the infliction of penalty of withholding of increment including stoppage at an efficiency bar or stagnation allowance. Therefore, the Superintendent of Police was competent to inflict such punishment. It is also submitted that the Superintendent of Police is also having the power to conduct a joint enquiry. Further, it is submitted that as the petitioner has submitted a representation against the appellate order,



therefore, the Revisional Authority has rightly rejected the application on the ground that the second appeal is not maintainable.

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

23. The counsel for the petitioner has contended that the petitioner was subjected to joint enquiry, which culminated into the impugned order of punishment. It is submitted that such joint enquiry could not have been initiated without prior sanction of the Governor as per Rule 18 (1) of the Rules of 1966.

Rule 18(1) reads as under:-

"18(1)Where two or more Government servants are concerned in any case, the Governor or any other authority competent to impose the penalty of dismissal from service on all such Government servants may make an order directing that disciplinary action against all of them may be taken in a common proceeding."

24. The Schedule appended to the Rules of 1966 describes the description of the post, appointing authority and the authority competent to impose penalties. The relevant portion of the said Scheduled is reproduced as under:-

Schedule

[See Rules 5, 8, 10, 24 and 29]

Description of Post	Appointing Authority	Authority competent to impose penalties which it may impose (with reference to item No.s.in rule 9)		
		Authority	Penalty	Appellate Authority
1	2	3	4	5
Home Department (Police)				
Class I				
Commandant SAF Superintendent of Police, Radio Commandant GEME Workshop	State Government	State Government		Governor
Class II				
Deputy Superintendents of Police Assistant Commandants, Special	Do	Do	All	Do



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Officer, Village Defence				
Class III (Non-Ministerial)				
Inspector of Police/Public Prosecutor/Subedars/Company Commander/Company Second in Commands	IG of Police	...	...	...
Sub-Inspector/Platoon Commanders/Assistant Sub-Inspector/Assistant Superintendent, Fir Brigade/Station Officer, Fire Brigade.	Deputy Inspector General of Police	...	...	...
Head Constable/Constables/Haveldar/Naik	1. Sr.Suptd.of Police 2. Suptd. of Police 3. Commandant SAF 4. S.Suptd. Police (Radio) 5. Suptd. Railway Police 6. Suptd.Fire Brigade 7. AIG of Police 8. Dy. Suptd. of Police of SAF Specially empowered by the Government for the appointment of constables. 9. Officer of equivalent			



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	rank.		
Class III (Non-Ministerial) posts in the Police Department are governed by the Madhya Pradesh Police Regulations framed under the provisions of the Indian Police Act. The control and Appeal Rules, will, therefore, not apply to them.			

25. However, on a bare perusal of the Schedule, particularly the Note appended to it, it is crystal clear that Class III (Non-Ministerial) posts, which also includes Sub Inspector and Assistant Sub Inspector, in the Police Department are governed by the Madhya Pradesh Police Regulations framed under the provisions of the Indian Police Act and the Rules of 1966 will, therefore, not apply to them. Therefore, the petitioner being Sub Inspector, was served with the charge-sheet for initiating joint inquiry.

26. As per Regulation 221, the Superintendent of Police is empowered to inflict punishment on SI and ASI as provided under Regulations 214 to 217 upon SI and ASI. Regulation 214(ii) provides that the punishment of withholding of increment can be inflicted by the Superintendent of Police. Therefore, the ground of the petitioner that the Superintendent of Police is neither empowered nor having jurisdiction to initiate joint inquiry by issuing show cause notice and cannot inflict the punishment as per Rule 18 of the Rules of 1966 is not tenable in the eyes of law.

27. The Division Bench of this Court *in re Raju Singh Ahirwar vs. State of M.P. and others* reported in (2017) 4 MPLJ 656 while dealing with the competence of Superintendent of Police in such matters, has held as under:-

"14. Further, Police Regulation 228 nowhere limits the aspect as to a solo enquiry or a joint enquiry. In other words, whether it is an enquiry against a police personnel or more than one, the Superintendent of Police under Regulation 228 has the competency to initiate the proceedings.



15. The issue as to whether it is within the competence of the Superintendent of Police to issue a charge sheet against the petitioner and direct for a joint enquiry is thus answered against the petitioner."

28. The second ground, which has been raised by the petitioner, is that the major punishment can be inflicted on a Class III non-ministerial employee of the Home Department only by an authority which is not subordinate to the appointing authority. The appointing authority of the petitioner as per Schedule is DIG, and therefore the Superintendent of Police was not competent to inflict punishment. However, from perusal of the Police Regulations as stated hereinabove, it is found that under Regulation 221 of the Police Regulations, the Superintendent of Police is empowered to initiate departmental enquiry and also to inflict punishment as provided under Regulation 214. Therefore, the said ground also is not sustainable in the eyes of law.

29. The third ground, which has been raised by the petitioner, is that against the first appellate order dated 25.03.2008 (Annexure P/2), the petitioner had submitted a representation before the Inspector General of Police, however, the said representation was dismissed vide order dated 20.06.2013 (Annexure P/6). The Inspector General of Police has rejected the representation on the ground that no second appeal is provided against the appellate order.

30. As per Regulation 270(1), the Inspector General of Police is having the *suo motu* power of revision against any order of the subordinate officer. Further sub-Regulation (ii) of Regulation 270 provides that on an application, the authority can consider it as a revision. For the sake of



convenience, Regulation 270(1) and (2) are reproduced as under:

"(1) Every order of punishment or exoneration, whether original or appellate shall be liable to revision suo-motu by any authority superior to the authority making the order.

(2) Every appellate order by a final appellate authority shall be liable to revision by such final appellate authority on application made in that behalf by the person against whom the order has been passed."

31. From perusal of the record, it is found that the petitioner has also preferred a mercy petition against the orders passed by the authorities. Therefore, as the next channel of challenge to the said orders has already been availed, at this stage, relegating the matter to the authority to decide the revision, would not be justifiable and in accordance with law. The orders passed by the authorities are merged with the order-Annexure P/7 passed in the mercy petition. Therefore, remanding back the matter to the authorities whose orders were under challenge in the mercy appeal would be against judicial precedent and will break the administrative hierarchy.

32. In view of the analysis of facts on merits, it is found that the petitioner has not made out any case for interference. Accordingly, the petition is dismissed.

(DEEPAK KHOT)
JUDGE

RAGHVENDRA