



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

S.B. Civil Writ Petition No. 16565/2023  
CNR: RJHC020838342023 | URN: CW / 32664U / 2023

Rohitash Meena S/o Prabhu Ram Meena, Aged About 61 Years,  
R/o A-55 Todi Nagar, Sikar, Dist. Sikar (Raj.)

-----Petitioner

Versus

1. Rajasthan State Road Transport Corporation, Through Its Chairman Cum Managing Director, Head Office, Parivahan Marg, Jaipur (Raj.)
2. Executive Director (Administration) Rsrtc, Head Office, Parivahan Marg, Jaipur (Raj.)
3. Financial Advisor, Rsrtc, Head Office, Parivahan Marg, Jaipur (Raj.)
4. Chief Manager, Rsrtc, Depot Sikar, Dist. Sikar (Raj.)

-----Respondents

For Petitioner(s) : Mr. Tanmay Dhand, Adv.  
Mr. Suraj K. Dixit, Adv.  
For Respondent(s) : Mr. Kapil Sharma, Adv.

**HON'BLE MR. JUSTICE ANAND SHARMA**

**Judgment**

**08/09/2026**

1. Although, the matter has come up on an application, yet with the consent of the parties, final arguments were heard.
2. By way of filing the present writ petition, the petitioner has assailed legality, validity and propriety of order dated 22.09.2023 passed by the Chairman of respondent-Rajasthan State Road Transport Corporation, whereby in the light of Regulation 4 of the Rajasthan State Road Transport Corporation Employees' Pension Regulations, 1989 (for short 'the Regulations



of 1989'), complete pension of the petitioner has been stopped and forfeited.

3. The petitioner has come out with the case that he was appointed on the post of Junior Accountant in respondent-Corporation and after attaining the age of superannuation, he has retired from service w.e.f. 31.03.2023 while holding the post of Assistant Accounts Officer.

4. It is stated that an FIR was lodged on 19.10.2011 against the petitioner for committing offences under Sections 7, 13(1)(D) read with 13(2) of Prevention of Corruption Act, 1988. On the basis of the aforesaid criminal incident, a charge-sheet for conducting disciplinary enquiry under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short 'the Rules of 1958') also served upon the petitioner. Since criminal case as well as departmental enquiry were pending on the date of retirement, hence, on retirement of the petitioner, he was granted provisional pension and 50% gratuity. After retirement of the petitioner, Special Judge, Prevention of Corruption Act No.3, Jaipur vide judgment dated 20.07.2023 convicted the petitioner for committing offence under Sections 7, 13(1)(D) read with 13(2) of the Prevention of Corruption Act with further directions to undergo imprisonment for two and half years along with fine. It is stated that the judgment of conviction and sentence was challenged by the petitioner by way of filing appeal before this Court, where sentence awarded by the trial Court has been suspended vide order dated 02.08.2023.

5. Thereafter, order dated 22.09.2023 was passed by the Chairman of respondent-Corporation only on the basis of the





aforesaid conviction and it was held that the petitioner is not entitled for pension and right to pension has been forfeited as well as benefits, which are otherwise admissible during suspension period were also forfeited.

6. Learned counsel for the petitioner while assailing the order dated 22.09.2023 submits that the impugned order has been passed in violation of Regulation 4 of the Regulations of 1989. Although, the aforesaid provision provides for granting an opportunity of hearing before passing appropriate order, yet no notice whatsoever was served upon the petitioner. Hence, the impugned order suffers from defiance of mandatory Regulation as well as non-compliance of principles of natural justice. Learned counsel for the petitioner relies upon the judgment of this Court in the case of **Ramjilal Jangid Vs. RSRTC & Ors.** (S.B. Civil Writ Petition No.6194/2021) decided on 11.05.2026 to support his submissions and challenge to the impugned order.

7. Learned counsel for the respondents, at the threshold, while opposing the writ petition, raised a preliminary objection that order dated 22.09.2023 is an appealable order in view of Regulation 4 (4) of the Regulations of 1989; however, without there being any justified reasons, the petitioner has bye-passed the statutory alternative remedy and has directly approached this Court by way of filing the present writ petition. Learned counsel submits that since, efficacious alternative remedy is available, therefore, the present writ petition cannot be entertained and is liable to be dismissed on this ground.

8. On merits, learned counsel for the respondents submitted that conduct of the petitioner has already been



adjudged by the criminal Court, where the petitioner has been convicted for committing offence under the provisions of the Prevention of Corruption Act, and Regulation 4 of the aforesaid Regulations of 1989 empowers the Competent Authority to pass penalty order for the purpose of discontinuing pension and other benefits in the cases, where the pensioner has been convicted for committing a serious crime or has been found guilty of committing misconduct.

9. However, while making such submission, learned counsel for the respondents would not controvert the statement made in the writ petition that no opportunity of hearing was afforded to the petitioner prior to passing the impugned order.

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

11. As regards the preliminary objection raised by learned counsel for the respondents with regard to availability of alternative remedy, this Court is conscious of the fact that in ordinary circumstances, the writ petition cannot be entertained under Article 226 of the Constitution of India, where the statute itself provides for an alternative remedy, however, such concept is not a strict rule and does not prohibit entertainment of writ petition in all the cases. The writ petition is discretionary remedy and in the case of **Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai & Ors.** reported in **(1998) 8 SCC 1**, the principles for entertaining writ petition under Article 226 have been laid down by the Hon'ble Supreme Court. It has been categorically held that in the cases, where the order impugned suffers from lack of jurisdiction or violation of principles of natural



justice, this Court under Article 226 of the Constitution of India can entertain the writ petition. In the instant case, admittedly the petitioner has come out with the case that principles of natural justice have been violated as no opportunity of hearing or notice was given in the instant case prior to passing of impugned order. Under these circumstances, in view of established principles of law, there is no absolute bar in entertaining the writ petition filed by the petitioner.

12. On merits, this Court finds that the petitioner has specifically pleaded in the writ petition that the order dated 22.09.2023 has although been passed while exercising powers under Regulation 4, yet the procedure contemplated under Regulation 4 has not been complied with in its letter and spirit, as the aforesaid regulation provides a specific rider that no order shall be passed under Regulation 4 without serving a notice to the pensioner. This Court in the case of **Ramjilal Jangid (supra)** had an occasion to interpret aforesaid Regulation 4 and observed as under:-

"14. This Court is also conscious of the fact that Regulation 4 empowers the competent authority to withhold or withdraw pension, where the pensioner is found guilty of grave misconduct or commission of an offence, as admittedly good conduct is an implied condition for continuance of pension. However, the core issue involved in the present case is whether while exercising powers under aforesaid Regulation 4, affecting the vested civil rights of retired employee, the respondents were justified or not in completely dispensing with the principles of natural justice; and as to whether the impugned order reflects due application of mind or not?

15. To examine the aforesaid question, it would be relevant to reproduce Regulation 4 of the Regulations of 1989, as under:-



#### "4. **Good conduct & condition for the grant of**

##### **Pension**

(1) Future good conduct shall be an implied condition of every grant of Pension. The Pension sanctioning authority may, by an order in writing, withhold/withdraw a pension or part thereof whether permanently or for a specified period if the pensioner is convicted of a serious crime or is found guilty of grave mis-conduct. Provided that no order shall be passed under this clause by an authority subordinate to the authority competent to make an appointment to the post held by the Pensioner immediately before his retirement from his service.

(2) Where a pensioner is convicted of a serious crime by a court of law, action under clause (1) shall be taken in the light of judgment of the court relating to such conviction.

(3) In a case not falling under clause (2) if the competent authority under clause (1) considers that the pensioner is prima facie guilty of grave mis-conduct, it shall before passing an order under clause (1):

(a) Serve upon the Pensioner a notice specifying the action proposed to be taken against him and the ground on which it is proposed to be taken and calling upon him to submit, within fifteen days of the receipt of the notice or such further time not exceeding fifteen days as may be allowed by the competent authority, such representation as he may wish to make against the proposal, and

(b) Take the representation, if any, submitted by the Pensioner under clause (a) into consideration.

(4) Where the authority competent to pass an order under clause (1) is the Chairman of the Corporation, the Chairman may pass such orders on the appeal as he deems fit."

16. A bare perusal of the aforesaid Regulation makes it evident that discretion has consciously being conferred upon the competent authority to either withhold or withdraw pension in full or in part, either permanently or for a specified period. Thus, the Regulation itself contemplates varying degree of





punishment depending upon the facts and circumstances of each case. Once such discretion has been vested in the authority, it necessarily follows that the authority is required to objectively consider all relevant aspects before choosing a particular course of action. The exercise of discretion cannot be mechanical or automatic merely because a conviction has been recorded. The order passed under Regulation 4 must disclose application of mind reflecting as to why the authority considered it appropriate to impose the harshest penalty of permanently withholding the entire pension instead of adopting any lesser measure permissible under the Regulation.

17. In the present case, the impugned order dated 28.04.2021 is apparently silent on all such relevant considerations. The order merely refers to conviction of the petitioner and thereafter abruptly directs permanent withholding of the entire pension. The order neither records any reasons nor reflects consideration of relevant factors such as the nature of misconduct, the length of service rendered by the petitioner, the period elapsed after retirement, the financial consequences of complete deprivation of pension, or even the possibility of imposing lesser penalty permissible under the Regulation. The impugned order, therefore, suffers from complete non-application of mind and fails to satisfy the requirement of a reasoned administrative order, more particularly when valuable retiral benefits of a retired employee are being permanently taken away.

18. While arriving at aforesaid conclusion this Court finds strength from the judgment delivered by Division Bench of this Court in the case of **Rajasthan State Road Transport Corporation & Others Vs. Shri Ram Yadav** reported in **1995(3) WLC (Raj.) 16** decided on 09.05.1995, in which the Division Bench has held as under:-

"12. It may be noted that the rule making authority has provided for imposition of one or more of the penalties enumerated in Rule 36. First four of the penalties i.e. (i) censure, (ii) withholding of increments or promotion, (iii) recovery from pay/wages of the whole or part of any pecuniary loss caused to the employer by negligence or breach of any law and (iv) fine upto 2% of worker's wages, are not appealable. The other four penalties, i.e. (i) forfeiture of wages during the period of suspension, (ii) reduction to a lower post or grade, (iii) termination of service which shall not be a disqualification for future





employment and (iv) dismissal from service which shall be disqualification for future employment, are penalties against the imposition of which appeal could be filed to the appellate authority. Standing Orders itself confer wide discretion upon the competent authority to select the penalty and impose upon the workman. This has got to be done by exercising the discretion in accordance with law. It is incumbent upon the competent authority to indicate "good and sufficient reasons" for selecting the penalty. The reasons must make it intelligible to all concerned as to why the competent authority has selected a particular penalty. Otherwise question may be asked as to why the penalty may not be minimum? The other one may say as to why not the maximum? The rule making authority has cast obligation upon the competent authority to consider the question of penalty rationally and exercise his discretion in choosing the penalty in just, fair and reasonable manner. That is the reason why the rule making authority has made it obligatory upon the competent authority to indicate "good and sufficient reasons" while selecting and imposing particular penalty upon the delinquent employee.

**13.** In essence, Rule 36 of the Standing Orders enjoins duty upon the competent authority to determine which of the penalties enumerated in the Rule is to be imposed upon the delinquent employee. In other words, to decide means to give rational judgment after considering the pros and cons of the matter. As the rule in terms enjoins a duty upon the competent authority to make selection of the penalty "for good and sufficient reasons" the competent authority is bound to apply its mind to all the relevant aspects of the case. The order itself must show that all the relevant aspects have entered into consideration in rendering the decision by a process of ratiocination. It is only when the order itself gives a clue of the factors which have weighed with the competent authority in deciding upon the punishment of removal from service that one can say that there has been application of mind. Only then it can be realised that relevant and germane factors (and none others) have entered into the equation. There can be no determination or decision which does not disclose that the "plus" and "minus" factors and "for" and "against" considerations have been arraigned in the weighing scales. 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. Selection of maximum penalty and naming it from out of the list of alternative penalties which could have been imposed cannot be done arbitrarily. Similarly, it cannot be a matter of 'ipse dixit' of the disciplinary authority. He has to inform himself of the relevant considerations. He must re-assure himself that the particular penalty deserves to be imposed in order to meet the requirements of the situation. It will not be sufficient for the competent authority to say in a general, vague and ambiguous manner that having regard to the facts and circumstances of the case the employee concerned deserves to be removed or dismissed from service. The competent authority is bound to take into consideration the gravity of the charge, the nature of its consequences, the circumstances under which the misconduct was committed, the working condition of the workman, his past service record, the personal and family circumstances of the delinquent employee. The competent authority must also pose a question as to whether the charge warranted an inference as regards his dishonesty, lack of integrity or lack of uprightness, whether the fault was such which had resulted in serious detriment to the public interest, whether the prolonged proceedings and sufferings by the workman and his family members during the period of litigation would not be sufficient to teach him a lesson? These and many other vital considerations must be posed by the competent authority and answer the same to its own satisfaction.

**23.** In the instant case the disciplinary authority has made no attempt to ascertain as to what will be the just penalty in the facts and circumstances of the case. The disciplinary authority was under an obligation as per the provisions of the Standing orders to indicate "good and sufficient reasons" before passing appropriate order of punishment. In the instant case no attempt is made to ascertain as to what would be the just penalty. As indicated hereinabove, the learned counsel for the respondent Corporation has not been able to place any material before the Court to show that the competent authority had "good and sufficient reasons" to choose the penalty of removal from service and forfeiture of wages for





the period of suspension. In this view of the matter, it cannot be said that the disciplinary authority has discharged the quasi judicial function in the manner required by law. It has got to be held that the disciplinary authority has not applied his mind to the most important function. Therefore, the order is nullity and the same is required to be quashed and set aside."

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."

13. Under the aforesaid circumstances, where facts of the instant case are almost identical to the case of **Ramjilal Jangid (supra)**, there is no reason to take a different view from the view already taken in the above case. In view of above, the writ petition filed by the petitioner is hereby allowed. The impugned order dated 22.09.2023 passed by the Chairman of respondent-RSRTC is hereby quashed and set aside. The matter is remanded back to the competent authority to reconsider the issue afresh in accordance with law. Before passing any fresh order, the





respondents shall issue an appropriate show cause notice to the petitioner indicating the proposed action and shall afford reasonable opportunity of hearing to him. The petitioner shall be at liberty to place all relevant facts and mitigating circumstances before the authority. Thereafter, the competent authority shall pass a reasoned and speaking order strictly in accordance with Regulation 4 of the Regulations of 1989 after due application of mind with regard to the nature and extent of penalty, preferably within a period of three months from the date of receipt of certified copy of this order. Till passing of fresh order, the respondents shall restore and continue payment of pension admissible to the petitioner in accordance with law and arrears thereof, if any, shall also be paid to the petitioner.

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

(ANAND SHARMA),J

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