



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



S.B. Civil Writ Petition No. 9337/2026

CNR: RJHC020457422026 | URN: CW / 20804U / 2026



1. Iftkharuddin Son Of Jamaluddin, Aged About 69 Years, Resident Of Kagzi Mohalla, City, Aalanpur Rural, Sawaimadhopur (Raj.)
2. Govind Singh Son Of Shri Ramsharan Singh, Aged About 78 Years, Resident Of Old Bayana Bus Stand, Bharatpur (Raj.)
3. Shri Chand Nehra Son Of Ramnarayan, Aged About 67 Years, Resident Of Deorod, Chirawa, District Jhunjhunu, Presently Resident Of P.no. 150, Sriram Nagar-A, Kalwar Road, Jhotwara, Jaipur.

----Petitioners

Versus

1. State Of Rajasthan, Through Its Additional Chief Secretary, Department Of Home Affairs, Govt. Of Rajasthan, Govt. Secretariat, Jaipur.
2. The Joint Secretary, Department Of Personnel, Governemnt Secretariat, Jaipur.
3. The Director General Of Police, Rajasthan, Jaipur.
4. The Inspector General Of Police, Bharatpur Range, Bharatpur
5. The Director, Directorate Pension And Pensioners Welfare Department, Vidyut Marg, Jyoti Nagar, Jaipur.

----Respondents

For Petitioner(s)	: Mr.G.S. Gautam with Ms.Saakshi Meena & Ms.Aratibai Meena
For Respondent(s)	: Ms.Manju Joshi, AGC with Mr.Yash Soni Mr.Rahul Lodha, AGC with Ms.Priyansha Barwar Ms.Vandana Sharma, DGC for Mr.Aakash Gaur, DGC

JUSTICE ANOOP KUMAR DHAND

Order



01/10/2026

1. The instant writ petition has been preferred against the impugned order dated 23.03.2026 passed by the respondent No.2, by which a punishment has been imposed on the petitioners for deduction/withholding of 10% of the pension amount payable to the petitioners for lifetime.

2. Learned counsel for the petitioners submits that charge-sheet under Rule 16 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (for short, "the Rules of 1958") was served upon the petitioners in the year 2012, but the enquiry was not completed against the petitioners during their service tenure. In the meantime, the petitioner Nos.1 to 3 stood retired after attaining the age of superannuation in the month of November, 2017, August, 2012 and June, 2019 respectively. Counsel submits that after conclusion of the enquiry, the Enquiry Officer did not find the charges to be proved against the petitioners and exonerated them of all the charges. The said Departmental Enquiry Report was prepared by the concerned Enquiry Officer on 05.07.2019 and thereafter, the respondents kept mum for a considerable period of time and after a lapse of six years, a disagreement note was prepared on 30.05.2025. On the basis of the aforesaid note, the petitioners were called upon to furnish their explanation and finally, the impugned order has been passed.

3. Learned counsel submits that in terms of the provisions contained under Rule 7 of the Rajasthan Civil Services (Pension) Rules, 1996 (for short, "the Rules of 1996"), an order of withholding the pension or withdrawal of pension can be passed against retired government employees only in two eventualities- in



case, the Governor is of the view that such pensioner was found guilty of grave misconduct or misuse of Government funds. The instant case does not fall within the above two categories. He further submits that in terms of the provisions contained under Rules 16(9) and 16(11) of the Rules of 1958, the Disciplinary Authority is supposed to record its reasons and findings on each and every charge, but in the instant case, no such findings were recorded for the charges levelled against the petitioners. Rather the impugned order has been passed on the basis of the preliminary enquiry conducted against the petitioners. Counsel submits that the aforesaid exercise so conducted by the respondents is contrary to the judgment dated 02.10.2014 passed by the Division Bench of this Court at Principal Seat at Jodhpur in the case of **State of Rajasthan & Ors. Vs. Om Prakash Joshi** while deciding **D.B. Civil Special Appeal (W) No.1280/2014**. Counsel submits that the respondents have recorded no reasons in the order impugned for imposing the penalty upon the petitioners, after a delay of more than six years. Counsel submits that in case, the reasons of delay are not properly explained, the order imposing penalty cannot be allowed to be sustained in terms of the judgment passed by the Hon'ble Apex Court in the case of **State of Andhra Pradesh Vs. N. Radhakishan** reported in **AIR 1998 SC 1833** and **P.V. Mahadevan Vs. M.D. Tamil Nadu Housing Board** reported in **AIR 2006 SC 207**.

4. *Per contra*, learned counsel appearing on behalf of the respondent-State opposed the arguments raised by counsel for the petitioners and submitted that the provisions contained under Rule 7 of the Rules of 1996 are not applicable in the present case,



as charge-sheet was served upon the petitioners prior to their retirement. Counsel further submits that on account of negligence of the petitioners in discharge of their duties, the charge-sheet was served upon them, the instant case is not a case of misconduct or loss to the Government Exchequer rather it is a case of negligence on the part of the petitioners in discharge of their duties. She further submits that after the enquiry was completed and the Enquiry Officer exonerated the petitioners from all the charges, a disagreement note was prepared by the respondents and notice was sent to the petitioners. Thereafter, upon considering the petitioner's reply and representation, the matter was sent to the Rajasthan Public Service Commission (for short, "the RPSC") and after getting the report from the RPSC, a decision was taken and the impugned order dated 23.03.2026 was passed, where the penalty of deducting/withholding of 10% of the pension amount for lifetime was imposed upon the petitioners.

5. Counsel submits that prior to passing of the order impugned, finding were recorded on each and every charge and the negligence of the petitioners was found to be proved, accordingly, the impugned order has been passed by the Disciplinary Authority by passing a reasoned and cogent order. Counsel submits that had it been a case where the petitioners would have still been in service, some other penalty could have been imposed, but looking to the fact that the petitioners stood retired, hence, under these circumstances, the impugned order has been passed for deducting/withholding 10% of the pension amount of the petitioners for lifetime. Hence, interference of this Court is not warranted and the instant petition is liable to be rejected.





6. In rejoinder, counsel for the petitioners submits that prior to the initiation of proceedings against the petitioners after their exoneration, the consent of Governor was not taken and even the RPSC was consulted at a subsequent stage. Hence, the respondents have violated the provisions contained under Rule 7 of the Rules of 1996. He further submits that after retirement of the petitioner, the proceedings could have been initiated against the petitioners only with the consent of the Governor and the RPSC, but such exercise was not conducted by the respondents before passing the order impugned. Hence, the order impugned is not sustainable in the eyes of law and is liable to be quashed and set-aside.

7. Heard and considered the submissions made at the Bar and perused the material available on record.

8. Perusal of the record indicates that charge-sheet under Rule 16 of the Rules of 1958, with regard to various charges, was served upon the petitioners in the year 2012, i.e., prior to retirement of the petitioners. It is worthwhile to mention here that all the petitioners have retired after service of the charge-sheet upon them. This fact is not in dispute that the enquiry in furtherance of the aforesaid charge-sheet was concluded by the Enquiry Officer after the petitioners' retirement and this fact is also not in dispute that the Enquiry Officer exonerated the petitioners of all the charges vide the Departmental Enquiry Report dated 05.07.2019. This fact is also not in dispute that the Disciplinary Authority was not satisfied with the enquiry of the Enquiry Officer, therefore, a disagreement notice was issued and served upon the petitioners and after receipt of their



reply/representation, the matter was proceeded against the petitioners.

9. Perusal of the record indicates that the petitioners were served with the charge-sheet dated 13.04.2012 with the charge that on 17.03.2011 on account of murder of one Dakha Devi, there was a protest in the village Soorwal by the villagers and some of them were raising demand for arrest of the accused persons and some of the villagers climbed the water tank and threatened to jump off the water tank in case, the accused persons were not arrested on the same day, i.e., 17.03.2011 by 5:00 P.M.

10. Thereafter, the Superintendent of Police of Sawai Madhopur reached on the spot alone with the police party and in the meantime, one of the protesters, namely, Rajesh Meena sprinkled petrol on his body, set himself on fire and jumped from the water tank, hence, the law and order situation spiraled out of control. It has been alleged in the charge-sheet that the petitioners instead of taking charge of the law and order situation, fled away from the site, hence, the law and order situation was further disturbed and in the meantime, a mob caught one Phool Mohammed, Sub-Inspector, who was discharging his duties on the spot. The mob started pelting stones on the said Phool Mohammed and the Government vehicle was set on fire and the said Phool Mohammed was also burnt alive, which resulted in his death. Considering the aforesaid act as an act of negligence on the part of the petitioners that they failed to discharge their duties and tarnished the image of the police, the charge-sheet under Rule 16 of the Rules of 1958 was served upon the petitioners.





11. Though the Enquiry Officer exonerated the petitioners of all the charges, but the Disciplinary Authority was not satisfied with the findings so recorded by the Enquiry Officer, that is why, in exercise of the powers contained under Rules 16(9) to 16(11), a disagreement note was prepared by the Disciplinary Authority and notice was issued to the petitioners and their reply was taken into account and thereafter, order impugned has been passed.

12. Perusal of the record indicates that the instant case is not a case where charge-sheet has been served upon the petitioners, after their retirement, rather the same was served upon the petitioners prior to their retirement, hence, the provisions contained under Rule 7 of the Rules of 1996 are not applicable *in toto* as argued by counsel for the petitioners. This Court finds no substance in the arguments raised by counsel for the petitioners that the case of the petitioners does not fall within the purview of the Rule 7 of the Rules of 1996 as there was no misconduct on the part of the petitioners and there was no loss caused to the Government Fund.

13. For ready reference, Rule 7 of the Rules of 1996 is reproduced as under:-

"7. Right of Governor to withhold or withdraw pension

(1) The Governor reserves to himself the right of withholding or withdrawing a pension or part thereof, whether permanently or for a specified period, and of ordering recovery from a pension of the whole or part of any pecuniary loss caused to the Government, if in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his



service including service rendered upon re-employment after retirement:

Provided that the Rajasthan Public Service Commission shall be consulted before any final orders are passed:

Provided further that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of [Rupees Eight thousand eight hundred fifty per mensem."

(2) (a) The departmental proceedings referred to in sub rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service:

Provided that where the departmental proceedings are instituted by an authority subordinate to the Governor, that authority shall submit a report recording its findings to the Governor.

(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement, or during his re-employment-

(i) shall not be instituted save with the sanction of the Governor,

(ii) shall not be in respect of any event which took place more than four years before such institution, and

(iii) shall be conducted by such authority and in such place as the Governor may direct and in accordance with the procedure applicable





to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.

(3) No judicial proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment, shall be instituted in respect of a cause of action which arose, or in respect of an event which took place, more than four years before such institution.

(4) In the case of a Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub rule (2), a provisional pension as provided in Rule 90 shall be sanctioned.

[Provided that in case of a Government Servant against whom departmental proceedings have been instituted under rule 17 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 for imposing any of the penalties specified in clauses (i) and (ii) of rule 14 of the said rule, the hundred percent final gratuity shall be paid.]

(5) Where the Governor decides not to withhold or withdraw pension but orders recovery of pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one third of the pension admissible on the date of retirement of a Government servant.

(6) For the purpose of this rule, -

(a) departmental proceedings shall be deemed to be instituted on the date on which the charges together with a statement of allegations on which they are





based, or the proposal of Government to take disciplinary action together with the allegations on which it is proposed to be taken, are issued to the Government servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date; and
(b) judicial proceedings shall be deemed to be instituted -

(i) in the case of criminal proceeding, on the date on which the complaint or report of a police officer, of which the Magistrate takes cognizance, is made, and

(ii) in the case of civil proceedings, on the date the plaint is presented in the court.

GOVERNMENT OF RAJASTHAN'S DECISIONS

1. Scope of expression 'grave misconduct':- The term 'grave misconduct' is wide enough to include 'corrupt practice'. In cases where the charge of corruption is proved after pension has been sanctioned, action to withhold or withdraw pension may be taken under rule 7. In this connection the provisions of this rule (i.e. 7) are to be noted carefully.

The property or pecuniary resources in respect of which the departmental or judicial proceedings are instituted under Rule 7 of the R.C.S. (Pension) Rules, 1996, should have been in possession of the person concerned or of any other person on his behalf at any time within the period of four years before the institution of such proceedings, if the same were not instituted while the officer was on duty either before his retirement or during re-employment.

2. Consultation with R.P.S.C., a measure of safeguard for pensioners:- A question was raised



whether the R.P.S.C. has to be consulted under Rule 7 only in cases which involve Gazetted Officers. It was held that the R.P.S.C. should be consulted in all cases before final orders to withhold or withdraw a pension or any part of it in terms of this rule are passed. This is a measure of safeguard for pensioners. Similarly the provision of departmental proceedings, if not instituted while the officer was on duty, should not be instituted save with the sanction of Governor is also for the pensioner's safeguard.

3. Governor's right to withhold or withdraw pension in full is absolute:- There is nothing in the language of Rule 7 to restrict the right of the Governor to withholding only a part of the pension in the case dealt with by this provision. On the other hand, the words "withholding or withdrawing a pension" clearly convey that the Governor is competent to withhold or withdraw the full pension. While to "restrict the amount of withheld pension to one third of the pension originally sanctioned" in the order may be applied in cases where the order is for recovery of losses from pension, it has no bearing on the question of Government's right to withhold or withdraw the pension and Government may order the full pension to be withheld or withdrawn.

4. Final order under Rule 7 will be issued in the name of the Governor:-

(i) It is clarified that the function of the Disciplinary Authority is only to reach a finding on the charges and to submit a report recording its findings to the Government. It is then for the Government to consider the findings and take a final decision under Rule 7. In case Government decide to take action under Rule 7 in the light of the findings of the





Disciplinary Authority, the Government will consult the Rajasthan Public Service Commission. If as a result of such consideration in consultation with the Commission, it is decided to pass an order, necessary orders will be issued in the name of the Governor.

(ii) The procedure outlined in the preceding paragraph will also apply to a case where the Governor functions as the Disciplinary Authority.

5. Grant of cent per cent provisional pension under Rule 90 mandatory even if departmental or judicial proceedings are continued:-

The payment of provisional pension under these rules is mandatory. The view that in cases where the departmental proceedings instituted against a Government servant were for a major penalty and in which ultimately no pension might become payable on the conclusion of the proceedings after his retirement under Rule 7 of the R.C.S. (Pension) Rules, 1996, even the provisional pension need not be sanctioned, is against the letter and spirit of the rule. The provisional pension under Rule 90 ibid should not be denied to the retired Government servants.

Rule 90 provides that the provisional pension in such cases should not exceed the maximum pension which would have been admissible on the basis of the qualifying service up to the date of retirement of the Government servant. It has been decided that even in cases covered by the above mentioned rule, hundred per cent pension, which is otherwise admissible to the Government servants should be authorised as provisional pension, as in cases of normal retirement. No gratuity shall, however, be paid at this stage.



**6. Minor penalty proceedings no effect on**

pension:- Sub rule (1) of Rule 7 of the R.C.S. (Pension) Rules, 1996, confers on the Governor the right to withhold or withdraw the pension or a part thereof, either permanently or for specified period, and to order recovery from the pension, of the whole or a part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment on retirement. Sub rule (2) of this Rule provides that the departmental proceedings, referred to in sub rule (1), if instituted before the retirement of a Government servant or during his re-employment shall after his final retirement, be deemed to be proceedings under this Rule and shall be continued and concluded. Accordingly, the minor penalty proceedings and the major penalty proceedings, which are instituted against a Government servant while in service and which do not get concluded before the date of retirement, automatically become proceedings under Rule 7 ibid. However, since grave misconduct or negligence cannot be established as a result of minor penalty proceedings, action under Rule 7 ibid for withholding or withdrawing pension etc., cannot be taken against a pensioner in respect of whom minor penalty proceedings had been instituted and have been continued after retirement, therefore, do not literally have any effect on the pension in the matter of reducing or withholding of his pension. The disciplinary authorities should take note of this position and take steps to see that minor penalty proceedings instituted against Government servants, who are due to retire, are finalised quickly and in





time before the date of retirement, so that the need for continuing such minor penalty proceedings beyond the date of retirement does not arise.

7. Disciplinary authority who instituted proceedings can drop them without submitting its findings to the Governor:-

The disciplinary authority which instituted the proceedings against the official before retirement, can drop the proceedings itself after superannuation of the official without submitting its findings to the Governor, if it, on the basis of the defence of the official or the report of the inquiring authority, comes to the conclusion that action under Rule 7 of the Pension Rules is not justified. There is no need to submit a report regarding the findings of the disciplinary authority to the Governor.

8. Disciplinary proceedings can continue after retirement even in case where there is no pecuniary loss to Government:-

(i) The question whether disciplinary proceedings pertaining to a serious or grave act of misconduct/negligence committed by a Government servant can be continued or instituted in terms of Rule 9 of C.C.S. (Pension) Rules, 1972, or other corresponding rules of the Central Government (corresponding to Rule 7 of R.C.S. (Pension) Rules, 1996), even if no pecuniary loss was caused to the Government, has been the subject matter of a number of Court/Tribunal cases. Because of the fact that divergent views were expressed by different Courts and the Benches of the Central Administrative Tribunal, this issue was referred to a Full Bench of the Central Administrative Tribunal, in case of Amarjit Singh V. Union of India (Administrative Tribunal Reporter 1988 (2) CAT 637). The Full Bench after





examining the matter at length, have held that institution/continuance of the proceedings is not dependent upon any pecuniary loss being occasioned to the Government. Even in the absence of any pecuniary loss, the pension of a pensioner can be withheld or withdrawn in whole or part, after following the prescribed procedure, for an act of misconduct/negligence committed while in service.

(ii) The above ruling of the Full Bench of CAT is brought to the notice of all concerned so that the same is appropriately referred to in all those cases where interpretation of Rule 7 of R.C.S. (Pension) Rules, 1996 and other analogous rules is involved.

9. In accordance with Section 9-A of Rajasthan Pensions Act, 1958, it is permissible to effect recovery of Government dues outstanding against the Government servant at the time of retirement or that subsequently found to be outstanding out of the amount of gratuity/pension or both payable/paid to him or the members of his family, without obtaining the consent of the retired Government servant or the members of his family, as the case may be.

The sum due from the Government servant to an autonomous organisation is not Government dues and so cannot be recovered out of gratuity/pension payable by the Government except in cases where -

(i) the Government servant has given his consent in writing to such a recovery being made from his gratuity which has become payable to him, or

(ii) any sum is due from a Government servant on deputation to Rajasthan State Electricity Board."

14. Bare perusal of the aforesaid Rule clearly indicates that the Governor reserves the right of withholding or withdrawing the



pension of any retired pensioner, in case, it is found in any departmental proceedings that such pensioner is found guilty of grave misconduct or negligence during the period of his service. In the instant case, a finding of fact has been recorded by the Disciplinary Authority that the petitioners were negligent in discharging of their duties. When the situation of law and order was disturbed on the fateful day, i.e., on 17.03.2011 instead of controlling the mob to maintain the law and order situation on the spot, they fled from the spot and the mob became aggressive and the mob not only damaged the Government vehicle, but also set fire to the Sub-Inspector Phool Mohammed, who was discharging his duties, which resulted in his death. The aforesaid unnatural and out of control situation occurred on account of negligence on the part of the petitioners. Instead of controlling the law and order situation, the petitioners fled from the spot and failed to discharge their official duties. Hence, there was grave negligence on the part of the petitioners in discharging their duties.

15. This Court finds that there was full compliance of the provisions contained under Rules 16(9) to 16(11) of the Rules of 1958. The Disciplinary Authority has not only recorded reasons in its disagreement note, but also made comments on the findings of the Enquiry Officer upon each of the charges levelled against the petitioners. It is not the case of the petitioners that delayed charge-sheet was issued to them after their retirement rather the charge-sheet was issued to them before their retirement, but the outcome of the proceedings came after their retirement.

16. Considering the overall facts and circumstances of the matter and looking to the grave negligence on the part of the petitioners,





the impugned order has been passed by recording a cogent and reasoned finding. This Court finds no error in the impugned order dated 23.03.2026 passed by the Disciplinary Authority, which warrants any interference of this Court. Accordingly, the instant writ petition is liable to be and is hereby rejected.

17. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

13/Aayush Sharma

