



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



S.B. Civil Writ Petition No. 5340/2007

Mohan Singh S/o Shri Shyam Lal, aged about 31 years, R/o Village and Post Mudhera Police Station, Uchain District Bharatpur

-----Petitioner

Versus

1. State Of Rajasthan through Inspector General of Police, Range-I, Police Headquarters, Government of Rajasthan, Jaipur.
2. Superintendent of Police, Headquarters, Jaipur City, Jaipur.

-----Respondents

Connected With

S.B. Civil Writ Petition No. 5616/2007

Kanhaiya Lal S/o Shri Swadeva Ram, aged 49 years, Resident of Village Kalwad, District Jaipur (Rural) Ex. Head Constable No.143, Jaipur City, Jaipur.

-----Petitioner

Versus

1. State of Rajasthan through the Additional Chief Secretary, Govt. of Rajasthan, Jaipur
2. The Director General of Police, Rajasthan, Jaipur.
3. The Inspector General of Police, Jaipur Range-I, Jaipur.
4. The Superintendent of Police, Head Quarter, Jaipur.

-----Respondents

S.B. Civil Writ Petition No. 822/2012

Hari Singh S/o Shri Bacchu Singh, aged about 31 years R/o Village Mai Tehsil Nadbai, District Bharatpur (Raj.) (Ex-Constable no 7291)

-----Petitioner

Versus

1. The State of Rajasthan, the Principal Secretary, Home Department, Govt. Secretariat, Jaipur.
2. The Inspector General of Police Jaipur Range (1st) Jaipur.
3. The Superintendent of Police, HQ, Jaipur City, Jaipur.

-----Respondents





For Petitioner(s) : Mr. Shobhit Tiwari, Adv. &
Mr. Pushpendra Singh Tanwar, Adv.
Mr. Ashwinee Kumar Jaiman, Adv.
with Mr. Ashish Kabra, Adv.
Mr. Hemraj Rodiya, Adv. for
Mr. D. C. Gupta, Adv.

For Respondent(s) : Mr. Somitra Chaturvedi, Dy. GC with
Mr. Manvendra Singh Fouzdar, Adv.



HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

07/01/2026

1. Matter is listed on an application No.1/2025 for early listing and final disposal of the writ petition. For the reasons mentioned in the application, the same is allowed.
2. Facts, impugned order and cause of action in all the above writ petitions are identical, therefore, with the consent of the parties, the writ petitions were heard analogously and are being decided by this common order.
3. The petitioners, who were substantive employees of respondent-Police Department and holding the post of Head Constable/Constable have assailed the order dated 18.12.2006 passed by the Superintendent of Police (Headquarter), Jaipur City, whereby in exercise of powers under Rule 19 of Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958, penalty of dismissal from service has been imposed upon the petitioners. They have also challenged the order dated 12.06.2007, whereby their appeals have been dismissed by the Appellate Authority.
4. Learned counsel for the petitioners submitted that all the petitioners were posted at the relevant time at Police



Commissionerate, Jaipur City and were assigned the responsibility of taking two accused to Gurgaon, Haryana for their appearance before the Court. The allegation against the petitioners was that when they were taking the accused persons Jayveer and Vikas to the Court at Gurgaon, they escaped from their custody. Thereafter, the preliminary enquiry was conducted against the petitioners and only on the basis of alleged report of preliminary enquiry and without conducting any regular enquiry under the provisions of Rules of 1958, powers under Rule 19 have been arbitrarily exercised without there being any such exigency to dispense with regular enquiry and thus, without properly affording opportunity of hearing and in violation of principles of natural justice, the petitioners have been saddled with harshest penalty of dismissal from service. Although, they approached the Appellate Authority with the contention that the penalty order is apparently against the provisions of Rules 1958 as well as Article 311 of Constitution of India, yet the Appellate Authority has also mechanically dismissed the appeals without properly considering the grounds of appeals. It is further submitted by learned counsel for the petitioners that both the accused, who escaped from custody of the petitioners have been re-arrested and are facing trial. In the aforesaid circumstances, learned counsel for the petitioners prayed for quashing the impugned order and reinstatement of the petitioners along with consequential benefits.

5. Learned counsel for the petitioners have also relied upon the order dated 07.05.2025 passed by this Court in **S.B. Civil Writ Petition No.2442/2022 (Naresh Pal Devaniya Vs. State of Rajasthan & Anr.)**.



6. *Per contra*, learned Deputy Government Counsel vehemently opposed the writ petitions and submitted that the misconduct committed by the petitioners was so grave that two accused persons, who were facing the charges of committing heinous offence, have been assisted by the petitioners in escaping from the custody, which has put the reputation of Police Department at stake. It is submitted that looking to the nature of the offence committed by the accused, the petitioners should have been more vigilant and rather on account of their collusion and connivance, the accused persons escaped from their custody, therefore, in view of the report of the preliminary enquiry, there was no requirement to conduct the regular enquiry and hence, the competent authority has taken a right decision to dispense with the regular enquiry and to take action under Rule 19 of the Rules of 1958.

7. Heard and considered.

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.

9. Apart from the reasons mentioned in the impugned penalty order no other reasons have been assigned. It is a settled proposition of law that the delinquent persons may be accused of any heinous misconduct, yet they have minimum right to face regular enquiry so that they may put forward their defence.

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."

12. Even the order passed by the Appellate Authority would reveal that the appeals filed by the petitioners have been rejected without properly examining the scope and extent of Rule 19 of the Rules of 1958 and as such the order dated 12.06.2007 passed by the Appellate Authority is also against the spirit of Rule 30 of the Rules of 1958.

13. In the light of above discussion and in view of the consistent view taken earlier by the Hon'ble Apex Court as well as this Court, this Court finds that the impugned order dated 18.12.2006 and the appellate order dated 12.06.2007 are arbitrary and illegal, hence, are hereby quashed and set aside. The petitioners are entitled for reinstatement as well as continuity in services and for other consequential benefits, however, actual monetary benefits shall not be given to them and the respondents would grant them notional benefits of fixation etc., for the



intervening period between date of dismissal to date of reinstatement.

14. It is made clear that mere quashing of aforesaid orders would not preclude the respondent-Government from conducting a regular inquiry under the provisions of Rules, 1958.

15. In view of above discussions, these writ petitions stand allowed.

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

17. Copy of this order be placed in each connected file.

(ANAND SHARMA),J

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