



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

S.B. Civil Writ Petition No. 13682/2024

Jagdish Prasad S/o Gopi Lal Meena, Aged About 47 Years, R/o Village Bhaglaw, Tehsil And District Dausa, Rajasthan, Presently Working As Constable No. 588, At Reserve Police Line Jaipur Rural, Rajasthan.



-----Petitioner

Versus

1. The State of Rajasthan, through the Additional Chief Secretary, Home Department, Government of Rajasthan, Jaipur.
2. Director General of Police, Police Headquarter, Jaipur Rajasthan.
3. Superintendent of Police, District Dausa, Rajasthan.

-----Respondents

For Petitioner(s) : Mr.Sudhir Yadav

JUSTICE ANOOP KUMAR DHAND

Order

05/03/2025

1. By way of filing this petition, a challenge has been led to the impugned charge-sheet dated 12.06.2024 which has been issued to the petitioner under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short, "the Rules of 1958").
2. Learned counsel for the petitioner submits that a preliminary enquiry was conducted by the respondents against the co-delinquent, where no such charges were levelled against the petitioner. Counsel submits that contrary to the preliminary enquiry conducted in the very same matter, now the instant charge-sheet has been served upon the petitioner on baseless



allegations, which are not tenable in the eye of law and the same is liable to be quashed and set-aside.

3. This fact is not in dispute that for the alleged misconduct, the memorandum of charge-sheet has been served upon the petitioner on 12.06.2024 with the allegation that there was negligence of the petitioner in conducting enquiry in a complaint submitted by the complainant. On the question, whether there was negligence on the part of the petitioner or not, the petitioner can put his defence by way of filing his reply and producing adequate evidence in support of his defence. In any case, this Court cannot act as an Inquiry Officer or Disciplinary Authority to adjudicate the correctness of the allegations.

4. Hon'ble the Supreme Court in the case of **Union of India & Ors. Vs. K.K. Dhawan** reported in **(1993) 2 SCC 56**, held as under:-

"26. In the case on hand, article of charge clearly mentions that the nine assessments covered by the article of charge were completed:

- i) in an irregular manner,
 - ii) in undue haste, and
 - iii) apparently with a view to confer undue favour upon the assessee concerned.
- (Emphasis supplied).

Therefore, the allegation of conferring undue favour is very much there unlike Civil Appeal No.560/91. If that be so, certainly disciplinary action is warranted. This Court had occasion to examine the position. In *Union of India v. A. N. Saxena*, (1992) 3 SCC 124 to which one of us (Mohan, J.) was a party, it was held as under (Paras 7 and 8 of AIR):

"It was urged before us by learned counsel for the respondent that as the respondent was performing judicial or quasi-judicial functions in making the assessment orders in question even if his actions were wrong they could be corrected in an appeal or in revision and no disciplinary





proceedings could be taken regarding such actions. In our view, an argument that no disciplinary action can be taken in regard to actions taken or purported to be done in the course of judicial or quasi-judicial proceedings is not correct. It is true that when an officer is performing judicial or quasi-judicial functions disciplinary proceedings regarding any of his actions in the course of such proceeding should be taken only after great caution and a close scrutiny of his actions and only if the circumstances so warrant. The Initiation of such proceedings. it is true, is likely to shake the confidence of the public in the officer concerned and also if lightly taken likely to undermine his independence. Hence the need for extreme care and caution before initiation of disciplinary proceedings against an officer performing judicial or quasi-judicial functions in respect of his actions in the discharge or purported to discharge his functions. But it Is not as if such action cannot be taken at all. Where the actions of such an officer indicate culpability, namely a desire to oblige himself or unduly favour one of the parties or an improper motive there is no reason why disciplinary action should not be taken."

27. This dictum fully supports the stand of the appellant. There is a great reason and justice for holding in such cases that the disciplinary action could be taken. It is one of the cardinal principles of administration of justice that it must be free from bias of any kind.

28. Certainly, therefore, the officer who exercises judicial or quasi-judicial powers acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge.

Accordingly, the contention of the respondent has to be rejected. It is important to bear in mind that in the present case, we are not concerned with the correctness or legality of the decision of the respondent but the conduct of the respondent in discharge of his duties as an officer. The legality of the orders with reference to the nine assessments may be questioned in appeal or revision under the Act. But we have no



doubt in our mind that the Government is not precluded from taking the disciplinary action for violation of the Conduct Rules. Thus, we conclude that the disciplinary action can be taken in the following cases:

- i) Where the officer had acted in a manner as would reflect on his reputation for integrity good faith or devotion to duty;
- ii) if there is prima facie material to show recklessness or misconduct in the discharge of his duty;
- ii) if he has acted in a manner which is unbecoming of a government servant;
- iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
- v) if he had acted in order to unduly favour a party;
- vi) if he had been actuated by corrupt motive however, small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great."

5. In the case of **State of Orissa Vs. Sangram Keshari Misra** reported in **(2010) 13 SCC 311** Hon'ble Apex Court has held that normally a charge-sheet is not quashed prior to conclusion of the enquiry on the ground that facts stated in the charge are erroneous for the reason that finding correctness or truth of the charge is the function of the disciplinary authority.

6. In the considered opinion of this Court, a writ petition generally does not lie against the charge-sheet unless it is established that the same had been issued by an authority not competent to initiate the disciplinary proceedings. It is a settled law that charge-sheet cannot be interfered with by the Court lightly or in a routine manner. The delinquent employee instead of seeking quashing of the charge-sheet at the initial stage must





submit his/her reply before the Enquiry Officer /Disciplinary Authority and wait for conclusion of the proceedings.

7. In view of the above, the instant petition stands disposed of granting liberty to the petitioner to raise all his available defence before the Inquiry Officer/Disciplinary Authority, which have been raised by him in this writ petition.

8. Stay application and all application(s) (pending, if any) also stand dismissed.

(ANOOP KUMAR DHAND),J

Aayush Sharma/44

