

Ravi Pratap Singh Vs State Of Chhattisgarh

Court: Chhattisgarh High Court

Date of Decision: Dec. 7, 2023

Acts Referred: Constitution of India, 1950 " Article 14, 226, 311(2)
Madhya Pradesh/Chhattisgarh Civil Services (Conduct) Rules, 1965 " Rule 6(1)
Code Of Criminal Procedure, 1973 " Section 321

Hon'ble Judges: Rajani Dubey, J

Bench: Single Bench

Advocate: Jitendra Gupta, Binu Sharma

Final Decision: Dismissed

Judgement

1. By way of the instant petitions, the petitioners challenged the impugned orders dated 06.01.2015 (Annexure P/1), 01.08.2015 & 07.08.2015

(Annexure P/2 in WPS No.1149 of 2016), 14.09.2015 & 24.09.2015 (Annexure P/2 in WPS No. 2272 of 2016), 23.09.2015 & 22.02.2016 (Annexure

P/3) passed by respondents No. 2, 3 & 4 whereby the services of the petitioners were terminated from the post of Police Constable in the Police

Department and appeal and mercy petition filed by the petitioners were also rejected without considering the facts and circumstances of the case.

2. Brief facts of the case as projected by the petitioners, are that the petitioners were initially appointed as constables in the Police Department on

02.09.2013 and immediately after appointment, they were sent to PTS Borgaon for police training on 26.04.2014 and since then, they were regularly

taking training and working in the Police department and thereafter, on 29.04.2014 in vehicle 407 having No. CG-03-0779, 15 newly appointed

constable had gone to Kondagaon to purchase the firewood and when they were coming back from there, the driver of the vehicle was driving the

vehicle rashly and negligently being under the influence of liquor and consequently, the vehicle met with an accident and 04 newly appointed

constables died on the spot and several others were injured. Thereafter, other newly appointed police constables got enraged and locked the main gate

of PTS Borgaon and blocked the main road of national highway No.30 which caused long traffic and due to which, the general public suffered.

3. Thereafter, the matter was inquired and petitioners were supplied charge-sheet on 10.07.2014 alleging that the petitioners were also involved in the

riot and committed misconduct according to the Civil Service Rule and Police Regulation Act. Pursuant to which, petitioners submitted their reply.

Thereafter, departmental enquiry was conducted by Sub Commandant 14th Vahini, CAF Camp Bhilai and thereafter, the petitioners were removed

from the services alleging that the petitioners contravened the Rule 6 (1) of the M.P. Civil Services (Conduct) Act, 1965 and para 64 of General

Service Condition Sl. No. 2, 4, 5 and 11 of the M.P. Police Regulation Act. Being aggrieved by the order of removal from service, the petitioners

preferred appeals before the respondent No.3 which were rejected vide Annexure P/2. Thereafter, the petitioners again preferred appeals before the

Director General of Police/respondent No.2, which were also rejected vide Annexure P/3. Hence, the present petitions have been filed by the

petitioners for the following reliefs:-

10.1. The Hon'ble Court may kindly be pleased to quash and set aside the orders dated 06.01.2015 (Annexure P/1), 01.08.2015 &

07.08.2015 (Annexure P/2 in WPS No.1149 of 2016), 14.09.2015 & 24.09.2015 (Annexure P/2 in WPS No. 2272 of 2016), 23.09.2015 &

22.02.2016 (Annexure P/3) pleaded to issue an appropriate writ/ order to set-aside the impugned order passed by the respondent No.2, 3 &

4.

10.2. The Hon'ble Court may kindly be pleased to direct the respondent authorities to reinstate the services of the petitioners on the post

of Police Constable along with full back wages and all other consequential benefits and found the order passed by the respondent No. 2,3

and 4 is illegal and baseless.

10.3 The Hon'ble Court may also kindly be pleased to direct the respondent authorities to compute the seniority and continuity of

service from the date of removal of the petitioners to till the date of reinstatement in service of the petitioners and also grant the interest @

18% per annum in the back wages of removal period.

10.4 Cost of the petition may also be granted to the petitioners.

10.5 Any other relief, which this Hon'ble Court deems fit and proper, may also kindly be granted to the petitioners, in the interest of

justice.

4. Learned counsel for the petitioners submits that the action of the respondent authorities is arbitrary, illegal and contrary to the law applicable to the

facts and circumstances. The petitioners were not involved in the aforesaid incident and at the place of incident, all newly appointed constables were

rioting but in a revengeful manner, petitioners were removed from the service and no action was taken against the rest of the constables who

participated in the said incident. The assembly of newly appointed constables was formed as the police department did not grant full protection to

them. As the accident occurred on 29.04.2014 due to rash and negligent driving of the vehicle and in the said incident, 04 newly appointed constables

died on the spot and several got injured, therefore, they refused to take training due to lack of facility. The punishment imposed upon the petitioners is

not at all commensurate with the gravity of the charge, hence the order passed by the respondent No.4 was absolutely illegal and improper and the

petitioners were also not provided with an opportunity to defend themselves on the basis of principles of natural justice.

5. The FIR was lodged against 73 persons, but the respondent authorities awarded punishment of removal from service to only the petitioners. Rest of

the constables were not punished till date and no action was taken against them by the respondent authorities. The act of the respondent authorities is

arbitrary and illegal and in violation of Article 14 of the Constitution of India. The petitioners were not called and they were not further heard and as

such the petitioners were subjected to harassment continuously for want of adequate relief and as such the petitioners deserve consideration. The

petitioners were regular employees and as per sub-clause (2) of Article 311 of the Constitution of India, no person shall be dismissed or removed or

reduced in rank except after an inquiry in which he was informed about the charges against him and given a reasonable opportunity of being heard in

respect of the charges. Hence, they are entitled for reinstatement along with back wages with all other consequential benefits.

6. Reliance has been placed on the judgment of Hon'ble Supreme Court in the matter of Deputy Inspector General of Police and another Vs. S.

Samuthiram reported in (2013) 1 SCC 598 and this Court's order dated 08.12.2015 passed in WPS No. 338 of 2010 in the matter of Khushi Ram

Sandilya Vs. State of Chhattisgarh and others.

7. Learned counsel for the respondents strongly opposes the prayer of the petitioners and submits that the act of both the petitioners was against Rule

6(1) of the Madhya Pradesh/Chhattisgarh Civil Services (Conduct) Rules, 1965. The revisional authority passed the orders impugned while exercising

its quasi judicial powers under the Acts and Rules and the petitioners failed to make out any ground for interference by this Court while exercising

jurisdiction conferred under Article 226 of the Constitution of India. Impugned orders passed by the respondent authorities are proper, legal and within

the jurisdiction and strictly in accordance with law and there is no infirmity or illegality in the same. Thus, the present petitions being devoid of any

merit and substance are liable to be dismissed.

8. Reliance has been placed on the judgment of Hon'ble Supreme Court in the matter of the State of Rajasthan & Ors. vs. Phool Singh reported in

2022 LiveLaw (SC) 735.

9. Heard counsel for the parties and perused the material placed on record.

10. It is not disputed in this case that the charge-sheet (Annexure P/4) was issued against the petitioners. In their reply, both the petitioners denied the

charges levelled against them and after enquiry report, the disciplinary authority passed the impugned order (Annexure P/1) for removal of service and

appellate authority also dismissed the appeals of the petitioners and, thereafter, the mercy appeals were also rejected by the competent authority.

11. It has been held by Hon'ble Apex Court in the matter of the State of Rajasthan & Ors. vs. Phool Singh reported in 2022 LiveLaw (SC) 735 in

paras 12 & 13 as under:-

12. Thus, in the present case, the learned Single Judge as well as the Division Bench of Rajasthan High Court were clearly wrong in

interfering with the order of the Disciplinary Authority of the Rajasthan Police and placing their reliance on Capt. M. Paul Anthony. It is

the Disciplinary Authority which is best equipped to reach a finding whether a "misconduct" has been committed. The prime concern of

a Judge should be whether such a finding has been arrived after following a fair procedure, following the principles of natural justice and

fairness. This aspect has been underlined in a recent judgment of this Court (State of Rajasthan v. Heem Singh (2020) SCC OnLine SC

886). The relevant para is reproduced as hereunder:

"39. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The

second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The

determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not

assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the

disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service.

Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to

judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable

doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches

based on context and subject. The first end of the spectrum is founded on deference and autonomy—“deference to the position of the

disciplinary authority as a fact finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the

other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no

evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse

determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognized it for long years

in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or

misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of

the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the

finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the

conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not

allow the court to reappreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more

appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common

sense without which the judges’ craft is in vain. It is true that this Court, apart from the case of Capt. M. Paul Anthony, has in a few

cases not interfered with the reinstatement of an employee who was dismissed as a result of disciplinary proceedings, and was only

reinstated in service because of his acquittal in criminal proceedings, but again the reasons which weighed with the Court in such cases

were that in almost in all such cases, the acquittal was an honourable acquittal and not an acquittal on a technicality, or on acquittal given

because of “benefit of doubt”.

13. In the case at hand, respondent was convicted by the Trial Court and in appeal the Appellate Court only acquitted him by giving him a

“benefit of doubt”. The operative part of order dated 26.11.1994 of the Appellate Authority reads as under:

“Hence, on the basis of aforesaid analysis the present appeal on behalf of the appellant accused against the respondent/prosecution is

allowed and the judgment and sentence dated 21.3.94 passed by the Subordinate Court of Munsif & Judicial Magistrate Dholpur is hereby

quashed and the above appellant/accused Phool Singh is acquitted for the charge u/s 392 IPC & u/s 3/25 of Arms Act by giving benefit of

doubt.Ã¢â€â€

12. In the instant case also, both the petitioners were members of unlawful assembly and the charge-sheet was filed against both the petitioners and

other constables before the trial Court. However, the prosecution of the petitioners and other constables was withdrawn under Section 321 of Cr.P.C.

by the Government and accordingly they were acquitted of the charges by the competent criminal Court. Thus, in these circumstances, acquittal of the

petitioners is not an Honourable acquittal but an acquittal on technical ground under Section 321 of Cr.P.C. because of withdrawal of the prosecution.

Both the petitioners were members of police force where discipline is the essence of organization and structure of police force which cannot be

compromised.

13. In the totality of the facts and circumstances of the case, the conduct of the petitioners and the observation of the HonÃ¢â€â€ble Supreme Court in

the matter of Phool Singh (supra), the instant petitions are liable to be and are hereby dismissed.