

**IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR  
BEFORE  
HON'BLE SHRI JUSTICE ANAND PATHAK**

**WRIT PETITION No.4405 OF 2012**

**Between:-**

**KAMTA PRASAD SHARMA S/O SHRI  
DESH RAJ SHARMA, AGED – 48  
YEARS, OCCUPATION – ASSISTANT  
SUB INSPECTOR, R/O- POSTED AT  
DINARA DISTT. SHIVPURI (M.P.)**

**.....PETITIONER**

**(BY SHRI YOGESH CHATURVEDI - ADVOCATE)**

**AND**

- 1. STATE OF M.P. THROUGH ITS  
PRINCIPAL SECRETARY, HOME  
DEPARTMENT, VALLABH BHAVAN  
BHOPAL (M.P.)**
- 2. DIRECTOR GENERAL OF POLICE,  
POLICE HEADQUARTER, BHOPAL  
(M.P.)**
- 3. DEPUTY INSPECTOR GENERAL OF  
POLICE, CHAMBAL RANGE,  
MORENA (M.P.)**
- 4. SUPERINTENDENT OF POLICE,  
DISTRICT BHIND (M.P.)**

.....RESPONDENTS

(BY SHRI SANJAY KUMAR SHARMA –  
GOVERNMENT ADVOCATE)

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Matter was heard and reserved : 19.04.2022

Matter delivered : 09.06.2022

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*This petition coming on for hearing this day, the court  
passed the following:*

**ORDER**

With consent heard finally.

The present petition under Article 226 of the Constitution of India has been preferred by the petitioner against the order dated 30.09.2011 (Annexure P/2) passed by the Superintendent of Police, District Bhind by which petitioner has been punished with stoppage of one annual increment with non-cumulative effect in a departmental proceedings initiated against him. Petitioners is also aggrieved by the order dated 15.06.2012 (Annexure P/1) passed by the Deputy Inspector General of Police, Chambal Range, Morena

whereby appeal preferred by the petitioner has also been dismissed.

2. Precisely stated facts of the case are that at the relevant point of time i.e. 31.01.2011, petitioner was working as Assistant Sub-Inspector at Police Station- Barohi, District Bhind and at that time one complaint was made by Sub-Inspector - Data Ram Mehoriya, who happens to be Station *In-charge* of the Police Station- Barohi, Bhind stating that on 31.01.2011 it has been informed by Head Constable Muneem Singh that petitioner seized one *Katta* from the possession of one Ramotar Narvariya @ Baba and without taking any action against him, present petitioner released Ramotar Narvariya @ Baba for extraneous consideration. In the letter, it was also written by the Station *In-charge* that petitioner also made entries in *Roznamchasana* on 30.01.2011 regarding proceedings of departure and return (रवानगी और वापसी) of Station *In-charge* wrongly for facilitating release of said person Ramotar Narvariya @ Baba without registering the case. Resultantly, petitioner was suspended

by the respondent No.4/Superintendent of Police, Bhind vide impugned order dated 02.02.2011 and preliminary inquiry was directed to be conducted.

3. Deputy Superintendent of Police, Bhind conducted preliminary inquiry and submitted its report to Superintendent of Police, Bhind on 25.02.2011 (Annexure P/4). Inquiry Officer in the said report came to the conclusion regarding innocence of the petitioner and found that the petitioner did not commit any illegality or irregularity and has not seized any *Katta* from the possession of the said person Ramotar Narvariya @ Baba. However; in para 4 of the inquiry report, it is mentioned that fact regarding lapse of petitioner while mentioning the proceedings of departure and return (रवानगी और वापसी) of Station *In-charge* - Data Ram Mehoriya in *Roznamchasana*, thus committed mistake.

4. After receiving the inquiry report, charge-sheet was issued against the petitioner by respondent No.4 and charge was framed

solely in respect of violation of Regulation No.634 of Madhya Pradesh Police Regulations wherein proceedings of 30.01.2011 regarding departure and return (रवानगी और वापसी) of Station House Officer, Police Station- Barohi District Bhind has wrongly been mentioned.

5. In response to issuance of charge-sheet, petitioner filed a detailed reply and contested the charge levelled against him.

6. Chief Superintendent of Police, Bhind was appointed as Inquiry Officer and R.I., Bhind was appointed as Presenting Officer. After statements of different witnesses and the submissions of the parties, Inquiry Officer came to the conclusion that charge has not been proved against the petitioner and he has not committed any illegality while mentioning the proceedings regarding departure and return (रवानगी और वापसी) of Station *In-charge* in *Roznamchasana* on 30.01.2011, because concerned Station House Officer himself countersigned on the same *Roznamchasana* and after verifying the

entries as per Regulation No.583 (a) of the Madhya Pradesh Police Regulations. After due verification of entries, concerned Station House Officer - Data Ram Mehoriya countersigned on the said entries, therefore, it indicates that he was satisfied with the said entries, thus, his complaint on subsequent date i.e. 31.01.2011 does not hold grounds.

7. Superintendent of Police, Bhind (respondent No.4 herein) showed his disagreement with the inquiry report filed as Annexure P/7 and issued show cause notice dated 27.07.2011 (Annexure P/8) to the petitioner to submit his response within a period of 7 days against the charge levelled. In response to the said show cause notice, petitioner submitted his detailed representation/reply before Superintendent of Police, Bhind vide Annexure P/9 but as alleged, without considering the same, impugned order has been passed in which petitioner was punished as referred above. Appeal was preferred by the petitioner but of no effect and met with the same

fate. Therefore, petitioner is before this Court.

8. It is the submission of learned counsel for the petitioner that initially allegation levelled against the petitioner was of corrupt practice wherein as per allegation, petitioner made a deal with the said person Ramotar Narvariya @ Baba because as per allegation he was in possession of a *Katta* but this fact has been ignored by the petitioner and did not implicate the said person Ramotar Narvariya @ Baba by way of filing FIR against him. But later on, charge has been shifted for causing wrong entries of departure and return (रवानगी और वापसी) and said allegation does not stand to merit because said Station House Officer- Data Ram Mehoriya himself verified the said entries of departure and return (रवानगी और वापसी) vide entries Nos.736 and 749 respectively on 30.01.2011. As per Regulation No.583(a) of the Madhya Pradesh Police Regulation, it is the duty of Station House officer to take care of such exigency and when he himself verified the said fact, therefore, taking somersault on next

day i.e. 31.01.2011 is perversity and arbitrariness, which has been ignored by the Superintendent of Police, Bhind and punished him with fine of Rs.500/- whereas petitioner was punished with stoppage of one increment with non-cumulative effect for one year. Therefore, petitioner cannot be punished for the lapse of his superior.

**9.** It is submitted that on the basis of preliminary inquiry when the petitioner was exonerated then there was no occasion for the authorities to proceed for the departmental inquiry. Nevertheless, departmental inquiry also exonerated the petitioner but because of motive to punish, respondent No.4 proceeded against the petitioner and while doing so caused illegality, because in his disagreement with Inquiry Officer in letter/show cause notice, he showed his disagreement in specific terms with the inquiry report and found the petitioner guilty, therefore, after reaching to the conclusion about the alleged involvement of the petitioner, hearing was an empty

formality. He relied upon the judgment rendered by Apex Court in the case of **Shekhar Ghosh Vs. Union of India and another** reported in (2007) 1 SCC 331 and in the case of **Ram Das Patel Vs. State of M.P. and others** reported in 2005 (2) M.P.L.J. 387,

10. It is further submitted by the learned counsel for the petitioner that petitioner is innocent and he has been falsely implicated. Petitioner is meritorious person and received two out of turn promotions for his bravery in tackling menace of dacoity in the area but no sufficient opportunity of hearing was given to the petitioner. Therefore, he prayed for setting aside of impugned orders.

11. Learned Government Advocate for the respondents/State opposed the prayer and supported the action of respondents/authorities and also supported the impugned order because according to him, after affording opportunity of hearing, impugned order has been passed by the Superintendent of Police

and rightly affirmed the same by the D.I.G. of Police, Morena in appeal. Therefore, he prayed for dismissal of this petition.

**12.** Heard the learned counsel for the parties and perused the documents appended thereto.

**13.** This is the case where the petitioner was working as Assistant Sub-Inspector and at the relevant point of time, he suffered allegations that he was hands in glove with one Ramotar Narvariya @ Baba and without taking action against him, released him. Thereafter, nature of allegations changed and as per subsequent allegations, wrong entries in *Roznamchasana* was made in respect of departure and return (खानगी और वापसी) of Station *In-charge* Data Ram Mehoriya. So far as allegation regarding causing entries in *Roznamchasana* is concerned, it is true that Regulation No.634 **(The General Diary)** deals in respect of brief record of the proceedings of police and occurrences which are reported in the police station on day to day basis. Therefore, if any advancement is

made by any police party to take cognizance of any event/offence, then it is to be registered into *Roznamchasana* and as per Regulation No.583 (a) of the Madhya Pradesh Police Regulation, it is the duty of the Station House Officer to countersign the General Diary and the cash book (if satisfied its correctness) daily on return from tours. He would also check the entries made during his absence and he will note that he has done so in the *Roznamchasana*. It is to be kept in mind that under Section 44 of the Police Act, 1861 and Sections 154 and 155 of Criminal Procedure code, the Station *In-charge* is responsible for the correct maintenance of General Diary.

**14.** For ready reference Regulation No.583 of the Madhya Pradesh Police Regulation is reproduced as under:-

**"583. Station Officer – Routine Duties of.-** The routine duties of a station officer may be summarized as follows:-

*(a) When present at the police station, he will personally supervise the routine work of the police station and will be careful to see that there are no arrears of correspondence.*

*He will see that all entries made by the station writer in the registers of the police station are accurate, and will check the cash balance and countersign the general diary and the cash book (if satisfied to its correctness) daily. On return from tour, he will check the entries made during his absence and will note that he has done so in the roznamcha.*

**Note:-** *Under Section 44 of the Police Act, 1861, and sections 154 and 155 of Criminal Procedure Code, the station officer is responsible for the correct maintenance of the general diary.*

*(b) He must enquire thoroughly into the expenditure of any Government money advanced for the purchase of building materials, etc, and satisfy himself that the outlay was necessary and was correctly brought to account. If any embezzlement of any kind occurs and he has neglected his duties of examination and check, he will be held responsible jointly with the station-writer.*

*(c) Properly in the police station, and for seeing that all his subordinates have their full equipment, and maintain it in proper order. To this end, kit inspection should be held on the first and third Mondays of each month.*

*(d) If the town or city in which his police station lies is provided with a special police force for the protection of life and property, he will see that the town constables are vigilant and constant in their patrolling, and that property is protected and crime prevented. On the commission of*

*an offence he will ascertain whether it was in any way due to neglect of duty on the part of the police.*

*(e) When at his headquarters, he will personally take charge of the morning parade and superintend and instruction of the staff. He will communicate to them such orders and information contained in the police gazette and criminal intelligence gazette as it is desirable for them to know. He will be present to hear the reports of the village watchman and will enquire from them particulars as to any bad or suspicious characters resident in their villages and as to abscond offenders once resident therein.*

*(f) He will verify by local enquiry every case of accidental or suspicious death in which he was unable personally to hold the inquest prescribed by Section 174, Criminal Procedure code.*

*(g) He will submit a weekly diary to the Circle Inspector, containing a brief account of all offences reports during the week, and the action of the police thereon, and notes of all occurrences of interest.*

**Note:-** *The diary is distinct from the weekly confidential reports submitted direct to the Superintendent.*

*(h) In order that he may move freely and quickly over the area in his charge, he will keep a riding pony which must be fit for the work required of it and be properly equipped. With the sanction of the Superintendent, a light*

*car drawn by ponies or bullocks may be kept instead of a pony.*

**15.** Perusal of the same reveals that he has bestowed with specific set of responsibilities and when in the present case while performing the duties as per Regulation 583(a), Station House Officer- Data Ram Mehoriya verified the entries on 30.01.2011 vide entry No.736 (departure from police station) and entry No.749 (return to police station) then taking diametrically opposite view on 31.01.2011 while making endorsement at entry No.772 renders the authority, authenticity and integrity of concerned Station House Officer doubtful. If he did not accompany the petitioner on 30.01.2011 as per *Roznamchasana* entry No.736, then it was his duty to immediately correct the same by incorporating allegedly correct facts but he did not do so. Therefore, at later stage, he cannot take stand to absolve himself from any liability and shift the burden over some other officer subordinate to him.

**16.** Incidentally, initial allegation was in respect of misconduct of

petitioner while releasing the person Ramotar Narvariya @ Baba from clutches of law, but would have otherwise implicated under the provisions of Arms Act and for keeping *Katta* in his possession but the said allegation did not stand in view of the preliminary inquiry as well as departmental inquiry in which all witnesses nowhere made any statements regarding foul intention of petitioner. All specifically said that no *Katta* was found in the premises of said person Ramotar Narvariya @ Baba, therefore, it appears that since inception a false case has been cooked up to implicate the petitioner and responsibility lies over Station House Officer than anybody else.

17. From perusal of show cause notice dated 27.07.2011 (Annexure P/8) issued by the Superintendent of Police, Bhind to the petitioner when he was in disagreement with the inquiry report, has specifically opined that he found the petitioner guilty of misconduct. In ultimate paragraph, he made observation that “अतः

आपको दोषी मानता हूँ”. This aspect has been considered by this court in the case of **Vikram Singh Rana Vs. Principal Secretary, State of M.P.** reported in **2013 (2) M.P.L.J. 232** in which learned Single Judge in the said case has considered the impact of Rule 15 (2) and (3) of the M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 and thereafter, came to the conclusion about the innocence of then delinquent employee. Facts of the said case and present one are almost same and while relying upon judgment of Apex Court in the case of **Yoginath D. Bagde Vs. State of Maharashtra and another** reported in **AIR 1999 SC 3734**, this Court held that if a show cause notice is issued to the charged official after forming an opinion to inflict the punishment then said show cause notice is bad in law.

**18.** Not only this, impugned order is impacted by the judgment of Apex Court in the case of **Shekhar Ghosh Vs. Union of India and another** reported in **(2007) 1 SCC 331** and in the case of **Kranti**

**Associates Private Limited and another Vs. Masood Ahmed Khan and others** reported in (2010) 9 SCC 496, in which principles regarding “Recording of Reasons” and “Post Decisional Hearing” are discussed.

**19.** If disciplinary authority had already made up its mind before giving an opportunity of hearing, then such a post decisional hearing in a case of this nature, is not contemplated in law. Since Superintendent of Police, Bhind made up his mind already, therefore, result of such hearing was a foregone conclusion.

**20.** Even otherwise, impugned order dated 30.09.2011 does not possess reasons to reach to the conclusion about misconduct of the petitioner and order has been passed in a slipshod manner. In fact in the said order, concerned Station House Officer- Data Ram Mehoriya, Police Station Barohi, Bhind was also punished with fine of Rs.500/- but it reflects otherwise. Authorities were not sure about their own thought process.

21. D.I.G. of Police in his appeal also did not consider the facts and legal position in correct perspective and passed impugned order.

22. Cumulatively, it appears that respondents/authorities caused illegality and arbitrariness in passing the impugned orders and case of the petitioner is made out for interference. Resultantly, petition is **allowed** and impugned orders dated 30.09.2011(Annexure P/2) and dated 15.06.2012 (Annexure P/1) are hereby set aside. Petitioner is absolved from the punishment accorded to him for stoppage of one increment with non-cumulative effect for one year.

23. Accordingly, petition stands **allowed and disposed** of in above terms.

**(Anand Pathak)**  
**Judge**

Rashid