IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

ON THE 10th OF OCTOBER, 2025

WRIT PETITION No. 6621 of 2014

SANJEEV SHRIVASTAVA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri D.P.Singh - learned counsel for petitioner.
Shri K.K. Prajapati - learned Government Advocate for respondent/State.

ORDER

This petition, under Article 226 of the Constitution of India, has been preferred seeking following relief (s):

> *"*i) That, the order impugned dated 27.09.2014 contained in Annexure -P/1 passed by the respondent No.2 may kindly be quashed with a further direction to the respondents not to inflict any penalty on the basis of media trial.
>
> ii) That, the order impugned dated 27.9.2014 (Annexure P/1) passed by the respondent No.2 be declared as void ab-initio, which issued in gross contravention of Rule 16 of Rules, 166.
>
> iii) That, any other relief which is suitable in the facts and circumstances of the case in favour of the petitioner including the costs throughout may also be granted.*"*

2. Learned counsel for petitioner submits that on the basis of newspaper report dated 6.9.2014 and newspaper report dated 18.9.2014, the impugned order dated 27.9.2014 (Annexure P/1) has been issued by which the punishment of withholding two increments without cumulative effect has been imposed. Learned counsel for petitioner further submits that before issuing the impugned order, no show cause notice has ever been issued and without giving any opportunity of being heard, the impugned order has been issued. It is submitted that petitioner has already denied the charges in front of the complainant. It is further submitted that once the petitioner has denied the charges, then the minor punishment cannot be awarded without holding the regular departmental inquiry. Learned counsel for the petitioner placed reliance upon the order dated 29.8.2025 passed in W.P. No.3495/2012 (**Maniram Sharma v. M.P.M.K.V.V. CO. LTD. & others).**

3. *Per contra*, learned counsel for the respondents/State submits that petitioner, against the impugned order, has an alternative remedy to submit appeal before Appellate Authority as per provisions contained under M.P. Civil Services Classification (Control and Appeal) Rules 1966. It is further submitted that fact finding inquiry was already conducted by the respondents and in the said inquiry it was found that petitioner had obtained bribe from the complainant and on the basis of fact finding inquiry the punishment order was issued.

4. Heard the learned counsel for the parties and perused the record.

5. By order dated 30.10.2014, this Court, while issuing notices to the respondents, mentioned that as no notice was issued or no opportunity

was afforded prior to inflicting penalty, Annexure P-1, the present petition has been entertained by this Court. Even, it is an admitted position that before issuance of impugned punishment order no show-cause notice was issued and no opportunity of being heard was provided to petitioner before inflicting the minor punishment.

6. Considering the above, objection raised by learned counsel for the respondents/State regarding alternative remedy is not tenable.

7. The Division Bench of this High Court, Bench at Gwalior, in ***WA.1736/2023 (Roop Singh Bhadoriya Versus Madhya Pradesh Madhya Kshetra Vidyut Vitaran Co. Ltd. And Others),*** passed the order dated 08.01.2025, whereby the punishment of stoppage of annual increment for one year without cumulative effect as inflicted upon the petitioner was set-aside and the matter was remitted back to the disciplinary authority to conduct departmental inquiry and thereafter pass necessary orders. The relevant contents of order dated 08.01.2025 are reproduced below for ready reference and convenience:-

> *"8. The Co-ordinate Division Bench of this Court in specific terms had observed that the Disciplinary Authority has the discretion to decide, for reasons to be recorded, whether a regular enquiry should be held or not. If he decides not to hold a regular enquiry and proceeds to decide the matter summarily the employee can always challenge the minor punishment imposed on the ground that the decision not to hold a inquiry was an arbitrary decision. In that event, the Court or Tribunal will in exercise of power of judicial review has to examine whether the decision of the Disciplinary Authority not to hold an enquiry was arbitrary or not. Further, if the Court/Tribunal holds that the decision was arbitrary then such decision not to hold an enquiry and the consequential imposition of*

punishment will be quashed. Thus, it is imperative and as has been held by learned Single Judge that the discretion which is vested in the authority is to be exercised reasonably and objectively and it should not be guided by arbitrariness, it was required for the disciplinary authority to have recorded reasons for not conducting regular inquiry but from bare perusal of the order dated 21.04.2011 (Annexure P/1), it would be evident that no such satisfaction has been recorded as to why departmental inquiry was not required to be held.

9. Learned Single Judge has also gone into the aspect that since the petitioner was inflicted with minor penalty of stoppage of annual increment for one year without cumulative effect, therefore, he would receive the benefit of grant of increment after the period of one year is over, therefore, no adversity would have caused in the pensionary benefits in the matter also does not appears to be correct proposition as definitely, due to stoppage of annual increment for one year, the petitioner would not only suffer less payment for the rest of the service period less by one increment till his retirement but would also in proportionate would receive lesser payment of retiral benefits including gratuity, pension, etc. Similarly, he will be also losing proportionate amount in the contribution to provident fund, thus, financial loss would be caused to the appellant, therefore, in that event, when the appellant had denied the allegations levelled against him in the show cause notice, the department ought to have conducted the departmental inquiry. Thus, in the aforesaid context, the order dated 08.09.2023 passed in W.P. No.7788/2011 by learned Single Judge does not appears to be in-conformity with the legal position and the same is hereby set-aside.

10. Accordingly, the order dated 21.04.2011 whereby punishment of stoppage of annual increment for one year without cumulative effect was inflicted upon the petitioner is hereby set-aside. The matter is remitted back to the

disciplinary authority to conduct departmental inquiry and thereafter pass necessary orders."

8. The Hon'ble Apex Court, in the case of **Food Corporation of India Vs. A. Prahalada Rao [(2001) 1 SCC 165]**, has held that, "holding of regular departmental enquiry is a discretionary power of the disciplinary authority which is to be exercised by considering the facts of each case and if it is misused or used arbitrarily, it would be subject to judicial review. In the case at hand, no material has been commended at to establish that the disciplinary authority, assigned any reasons for not holding the departmental enquiry".

9. Furthermore, a Division Bench of this Court in **Union of India and Anr. Vs. C.P. Singh [2004 (2) MPJR 252]** had an occasion to examine the issue as to whether an inquiry can be dispensed with, in all cases where the penalty proposed is recovery of pecuniary loss caused by negligence or breach of orders categorized as minor penalty? Their lordships taking note of decisions in **C.R. Warrier Vs. State of Kerala (1983 (1) SLR 608), V. Srinivasa Rao Vs. Shyamsunder (ILR 1989 Ker. 3455); G. Sundaram Vs. General Manager, Disciplinary Authority, Canara Bank (ILR 1998 Kar. 4005); O.K. Bhardwaj Vs. Union of India and others [(2001) 9 SCC 180] and Food Corporation of India Vs. A. Prahalada Rao [(2001) 1 SCC 165]** were pleased to observe:

"16. The position as can be gathered from the Rules and the aforesaid decisions can be summarised thus:

(i) In a summary inquiry, a show cause notice is issued informing the employee about the proposal to take disciplinary action against him and of the imputations of misconduct or misbehaviour on which such action is proposed to be taken. The employee is given an opportunity of making a representation against the proposal. The Disciplinary Authority considers the records and the representation and records of findings on each of the imputations of misconduct.

(ii) In a regular inquiry, the Disciplinary Authority draws up the articles of charge and it is served on the employee with a statement of imputation of misconduct, list of witnesses and list of documents relied on by the Department. The Disciplinary Authority calls upon the employee to submit his defence in writing. On considering the defence; the Disciplinary Authority considers the same and decides whether the inquiry should be proceeded with, or the charges are to be dropped. If he decides to proceed with the enquiry, normally an Inquiring Authority is appointed unless he decides to hold the inquiry himself. A Presenting Officer is appointed to present the case. The employee is permitted to take the assistance of a coemployee or others as provided in the rules. An inquiry is held where the evidence is recorded in the presence of the employee. The employee is permitted to inspect the documents relied upon by the employer. The employee is also permitted to call for other documents in the possession of the Management which are in his favour. The delinquent employee is given an opportunity to rebut the evidence of the management by cross-examining the management witnesses and by producing his evidence both documentary and oral. Arguments-written and/or oral-are received/heard. The delinquent employee is given full opportunity to put forth his case. Therefore, the Inquiring Authority submits his report. The copy of the report is furnished to the employee and his representation is

received. Thereafter the Disciplinary Authority considers all the material and passes appropriate orders. The detailed procedure for such inquiries is contained in sub-rules (6) to (25) of Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968 corresponding to sub-rules (3) to (23) of Rule 14 of the Central' Civil Services (CCA) Rules, 1965 and M.R Civil Services (CCA) Rules, 1966.

(iii) The normal rule, except where the employee admits guilt, is to hold a regular inquiry. But where the penalty proposed is a 'minor penalty', then the Rules give the Disciplinary Authority a discretion to dispense with a regular inquiry for reasons to be recorded by him, and hold only a summary enquiry.

(iv) Though the Rules contemplate imposing a minor penalty without holding a regular enquiry, where the Disciplinary Authority is of the opinion that such enquiry is not necessary, such decision not to hold an enquiry can be only for valid reasons, recorded in writing. Dispensation with a regular enquiry where minor penalty is proposed, should be in cases which do not in the very nature of things require an enquiry, for example, (a) cases of unauthorised absence where absence is admitted but some explanation is given for the absence; (b) non-compliance with or breach of lawful orders of official superiors where such breach is admitted but it is contended that it is not wilful breach; (c) where the nature of charge is so simple that it can easily be inferred from undisputed or admitted documents; or (d) where it is not practicable to hold a regular enquiry.

(v) But, even where the penalty proposed is categorised as minor penalty, if the penalty involves withholding increments of pay which is likely to affect adversely the amount of pension (or special contribution to provident fund payable to the employee), or withholding increments of pay for a period exceeding three year or

withholding increments of pay with cumulative effect for any period, then it is incumbent upon the disciplinary authority to hold a regular inquiry.

(vi) **Position before decision in FCI**: Where the charges are factual and the charges are denied by the employee or when the employee requests for an inquiry or an opportunity to put forth the case, the discretion of the Disciplinary Authority is virtually taken away and it is imperative to hold a regular inquiry.

Position after decision in FCI: Where the Rules give a discretion to the Disciplinary Authority to either hold a summary enquiry or regular enquiry, it is not possible to say that the Disciplinary Authority should direct only a regular enquiry, when an employee denies the charge or requests for an inquiry. Even in such cases, the Disciplinary Authority has the discretion to decide, for reasons to be recorded, whether a regular enquiry should be held or not. If he decides not to hold a regular enquiry and proceeds to decide the matter summarily, the employee can always challenge the minor punishment imposed, on the ground that the decision not to hold a regular enquiry was an arbitrary decision. In that event, the Court or Tribunal will in exercise of power of judicial review, examine whether the decision of the Disciplinary Authority not to hold an enquiry was arbitrary. If the Court/Tribunal holds that the decision was arbitrary, then such decision not to hold an enquiry and the consequential imposition of punishment will be quashed. If the Court/Tribunal holds that the decision was not arbitrary, then the imposition of minor penalty will stand.

17. It is also possible to read the decisions in Bharadwaj and FCI harmoniously, if Bharadwaj is read as stating a general principle, without reference to any specific rules, that it is incumbent upon the Disciplinary Authority to hold a regular enquiry, even for imposing a minor penalty, if the charge is factual and the charge is denied by the employee. On the other

hand, the decision in FCI holding that the Disciplinary Authority has the discretion to dispense with a regular enquiry, even where the charge is factual and the employee denies the charge, is with reference to the specific provisions of a Rule vesting such discretion.

18. There is yet another aspect which requires to be noticed. Where the penalty to be imposed though termed as minor, is likely to materially affect the employee either financially or career-wise then it is not possible to dispense with a regular enquiry. In fact, this is evident from sub-rule (2) of Rule-11 which says that where the penalty to be imposed, though termed as minor penalty, involves withholding of increments which is likely to affect adversely the amount of pension or special contribution to provident fund, or withholding of increments of pay for a period exceeding three years or withholding of increments of pay with cumulative effect, then an enquiry as contemplated under Rule-9 (6) to (25) is a must. Thus, categorisation of penalties into 'major' and 'minor' penalties, by itself may not really be determinative of the question whether a regular enquiry is required or not.

19. While 'censure' and withholding of increments of pay for specified period may conveniently be termed as minor punishments, we feel very uncomfortable with 'recovery of pecuniary loss, for negligence or breach of 'orders' without stipulating a ceiling, being considered as a 'minor penalty'. 'Recovering small amounts, as reimbursement of loss caused to the employer byway of negligence or breach of orders from the pay of the employee can be a minor penalty. But can recovery of huge amounts running into thousands and lakhs, by way of loss sustained on account of negligence or breach of orders, be called as a minor penalty ? For example, in this case, recovery sought to be made from the petitioner is Rs. 75,525/- determined as being 50% of the total value of 74 rail posts. Theoretically, what would be the position if the loss was 740 or 7400 rail posts.? Does it mean that recovery of Rs. 7.5 lakhs or Rs. 75 lakhs can be ordered from the Government servant, still

terming it as a minor penalty, without holding any enquiry ? It is time that the State and authorities take a second look as what is termed as ’minor penalty' with reference to recovery of losses. The recovery of pecuniary loss on account of negligence or breach of order though termed as a minor penalty may have disastrous consequences, affecting the livelihood of the employee, if the amount sought to be recovered is huge.

20. In the absence of any ceiling as to the pecuniary loss that can be recovered by treating it as minor penalty, it is necessary to find out whether there is any indication of the limit of amount that can be recovered without enquiry, by applying the procedure for imposition of minor penalties. We get some indication of the pecuniary limit in Rule-11 (2) which provides that if the minor penalty involves withholding of increments of pay for a period exceeding three years then a regular enquiry is necessary. Thus, we can safely assume that the pecuniary loss proposed to be recovered exceeds the monetary equivalent of increments for a period of three years, then a regular enquiry has to be held.

21. The fastening of pecuniary liability on the basis of negligence or breach of orders, involves decision on four relevant aspects:

(a) What was the duty of the employee?

(b) Whether there was any negligence or breach of order on the part of the employee while performing such duties?

(c) Whether the negligence or breach of order has resulted in any financial loss to the employer?

(d) What is the quantum of pecuniary loss and whether the pecuniary loss claimed include any remote damage and whether the employer has taken steps to mitigate the loss?

> These are not matters that could be decided without evidence, and without giving an opportunity to the employee to let in evidence. Therefore, where the charge of negligence or breach of lawful order is denied, a regular enquiry is absolutely necessary before fastening financial liability on the employee, by way of punishment of recovery of pecuniary loss from the employees. However, having regard to the decision in FCI, regular inquiry can be dispensed with, for valid reasons, if the amount to be recovered is small (which in the absence of a specific provision, does not exceed the equivalent of three years increment at the time of imposition of penalty). Any attempt to fasten any higher monetary liability on an employee without a regular enquiry, by terming it as a minor penalty, would be a travesty of justice."

10. The careful reading of these decisions and applying the principle of law in the facts of present case, leaves no iota of doubt that in the case at hand the **disciplinary authority acted arbitrarily in dispensing from holding a regular departmental enquiry for no recorded reasons. Or even if there were reasons, the same were not communicated**.

11. The Division Bench of this Court in the case of **Roop Singh Bhadoriya Vs. Madhya Pradesh Madhya Kshetra Vidyut Vitaran Co. Ltd and others (WA No.1736 of 2023) vide order dated 08.01.2025** has held as under:

> "8. The Co-ordinate Division Bench of this Court in specific terms had observed that the Disciplinary Authority has the discretion to decide, for reasons to be recorded, whether a regular enquiry should be held or not. If he decides not to hold a regular enquiry and proceeds to decide the matter summarily the employee can always challenge the minor punishment imposed on the ground that the decision not to hold a inquiry was an arbitrary decision. In that event, the Court or Tribunal will in exercise of power of judicial review

> has to examine whether the decision of the Disciplinary Authority not to hold an enquiry was arbitrary or not. Further, if the Court/Tribunal holds that the decision was arbitrary then such decision not to hold an enquiry and the consequential imposition of punishment will be quashed. Thus, it is imperative and as has been held by learned Single Judge that the discretion which is vested in the authority is to be exercised reasonably and objectively and it should not be guided by arbitrariness, it was required for the disciplinary authority to have recorded reasons for not conducting regular inquiry but from bare perusal of the order dated 21.04.2011 (Annexure P/1), it would be evident that no such satisfaction has been recorded as to why departmental inquiry was not required to be held."

12. Considering the facts and circumstances of the case, this petition is ***allowed*** and the impugned order dated 27.9.2014 is hereby quashed. The respondents are directed to give consequential benefits to petitioner within a period of three months from the date of receipt of certified copy of this order. However, the respondents would be at liberty to take action against petitioner in accordance with law, if so advised.

13. With the aforesaid observation, this petition stands ***disposed of***.

(Anand Singh Bahrawat)
Judge

Ahmad