**IN THE HIGH COURT OF MADHYA PRADESH**
**AT GWALIOR**
**BEFORE**

**HON'BLE SHRI JUSTICE ASHISH SHROTI**

**WRIT PETITION No. 297 of 2021**

***BRASANG DEV SINGH***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

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**Appearance:**

*Shri MPS Raghuvanshi learned Senior Counsel with Shri D.S. Raghuvanshi - Advocates for the petitioner.*

*Shri Jitesh Sharma – Govt. Advocate for the respondents/State.*

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*Whether approved for reporting: Yes/No.*
*Reserved for order on: 14/08/2025*

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**O R D E R**
**(Passed on 04/09/2025)**

The petitioner has invoked Article 226 of the Constitution of India challenging the order, dated 12.10.2011 (Annexure P/4), whereby respondent no.4 has imposed punishment of stoppage of one increment with non-cumulative effect on petitioner on account of certain misconduct found proved against the petitioner. He has also challenged the order, dated 12.12.2012, (Annexure P/3), order dated 13.02.2017 (Annexure P/2) and order, dated 20.05.2020, (Annexure P/1) whereby his appeals and mercy appeal have been dismissed by the respondents no.1, 2 & 3.

**[2].** The facts necessary for decision of this case are that the petitioner at the relevant time was working as Sub-Inspector and was posted at Police Station Civil Lines, Vidisha. One Sanabbar Khan S/o Anwar Khan was

arrested in connection with Crime No.158 of 2010 for the offence punishable under Section 379 of IPC. He was on police remand for one day. In the night of 23.06.2010, while the petitioner was interrogating him, the accused ran away from his custody. Accordingly, a separate criminal case was registered against Sanabbar Khan under Section 224 of IPC. Later on, on 20.07.2010, the petitioner again arrested him.

**[3].** Taking cognizance of the incident, the respondent no.5 issued a notice to the petitioner asking him to explain as to why the action be not taken against him. The petitioner submitted his reply to the notice stating that there was power cut in the Police Station due to heavy rains. It was his submission that taking advantage of the power cut and heavy rains, the accused ran away from his custody. He also stated that there were other staffs present in the Police Station including T.I. and Guards, therefore, he alone cannot be held responsible for the incident. He further stated that he again arrested the accused on 20.07.2010 and, therefore, no negligence can be attributed on his part. The respondent no.5 considered the petitioner's explanation and passed the order, dated 04.11.2010, (Annexure P/6) whereby though he recorded the finding of negligence on the part of petitioner, accepting his explanation and particularly the fact that the petitioner himself arrested the accused again on 20.07.2010, he was let of by imposing fine of Rs.100/- with warning to be careful in future.

**[4].** The respondent no.4, while periodical scrutiny of disciplinary matters, came across the order passed by the respondent no.5. He was *prima facie* of the opinion that, looking to the act alleged against the petitioner, the punishment imposed by respondent no.5 is not adequate. The respondent no.4, therefore, took the matter in *suo motu* revision

exercising powers under Regulation 270(4) of M.P. Police Regulations Act. Accordingly, a show cause notice was issued to the petitioner on 20.02.2011, (Annexure P/5) asking him to explain as to why the punishment of stoppage of one increment with non-cumulative effect be not imposed on him. The petitioner submitted his reply on 19.08.2011 reiterating the same explanation which was given by him before the respondent no.5. Considering the entire matter again, the respondent no.4 passed the order, dated 12.10.2011, (Annexure P/4) thereby imposing punishment of stoppage of one increment for one year without cumulative effect. The respondent no.4 recorded his satisfaction that there was gross negligence on the part of petitioner while the accused ran away from his custody and punishment of Rs.100/- imposed by respondent no.5 was not adequate.

**[5].** Being aggrieved, the petitioner challenged the order of punishment in appeal before the respondent no.3 which came to be dismissed vide order, dated 12.12.2012, (Annexure P/3). Further the mercy appeals filed by petitioner before the respondent no.2 and again before the respondent no.1 were dismissed vide order, dated 13.02.2017, (Annexure P/2) and 20.05.2020 (Annexure P/1) respectively. Challenging these orders of punishment, the petitioner is before this Court.

**[6].** The learned Senior Counsel for the petitioner submitted that the exercise of power under Section 270(4) of M.P. Police Regulation Act is illegal inasmuch as no such power could have been exercised after expiry of period of six months from the date of imposition of punishment passed by respondent no.5. He submitted that the respondent no.5 passed the order of punishment on 04.11.2010 while the impugned show cause notice was

issued to the petitioner on 20.02.2011 and ultimately the punishment order was passed on 22.10.2011. In support of his submission, he placed reliance upon the Coordinate Bench judgment passed by this Court in the case of **Angad Singh Rathore Vs. State of M.P. & Ors.** reported in **2010(1) MPLJ 171** as also in the case of **Brasang Dev Singh Vs. State of M.P. & Ors. (W.P. No.1379 of 2009).**

**[7].** The learned Senior Counsel also submitted that the respondent no.4 unilaterally cancelled the order of punishment passed by respondent no.5 and then issued notice to the petitioner asking him to show cause as to why the proposed punishment be not imposed upon him. It is his submission that the respondent no.4 was required to issue notice before cancellation of order passed by respondent no.5. The fact that respondent no.4 first cancelled the order, dated 04.11.2010, and then issued notice to the petitioner on the proposed punishment, shows his pre-determined mind. He thus submitted that the impugned orders of punishment are liable to be set-aside.

**[8].** On the other hand, learned counsel for the respondents supported the impugned orders and submitted that the negligence on the part of petitioner is not in dispute. Even the respondent no.5 also recorded a finding of guilt against the petitioner. The matter is all about punishment to be imposed upon the petitioner. He further submitted that the provisions of Regulation 270(4) of M.P. Police Regulation empowers the respondent no.4 to *suo motu* revise the order if he is of the opinion that the punishment imposed is not adequate and commensurate with the nature of allegation made against the petitioner. The learned counsel also submitted that the notice was issued to the petitioner on 20.02.2011 which was well within the period of

six months from the date of punishment order issued by respondent no.5. However, the petitioner did not submit his reply to the show cause notice within the time granted to him for the said purpose. In order to afford him opportunity, a reminder was issued to him on 14.06.2011 (Annexure R/1). He thereafter submitted his reply on 19.08.2011 immediately thereafter the punishment order was passed on 12.10.2011. It is his submission that the petitioner cannot be allowed to take benefit of his own tactics in gaining time by not submitting reply. The learned Counsel, therefore, submitted that the impugned orders do not call for any interference by this Court in limited scope of jurisdiction of judicial review.

**[9].** Considered the arguments and perused the record.

**[10].** The facts of the case are not in dispute. Admittedly, the accused ran away from the petitioner's custody while interrogation on 23.06.2010. The petitioner tried to justify the aforesaid act taking shelter of power cut in the police station and the heavy rains. However, the same was not found justified by the respondent no.5. The finding of guilt was recorded by respondent no.5 also in his order dated 04.11.2010 which is not challenged by petitioner. However, he imposed fine of Rs.100/- only taking into account the fact that the petitioner himself arrested the accused again. The matter is taken in *suo-moto* revision only on the aspect of quantum of punishment. Thus, the issue is only about imposition of punishment based upon the act attributed to the petitioner.

**[11].** Running away of an accused from the police custody that too from the police premises, is a serious lapse. The respondent no.5 took a lenient view and imposed fine of Rs.100/- only on the basis of fact that the

petitioner himself re-arrested the accused on 20.07.2010. However, the respondent no.4 did not accept his justification and was of the opinion that negligence on the part of petitioner cannot be diluted by his subsequent act of re-arresting the accused. He thus imposed a minor punishment of stoppage of one increment with non-cumulative effect.

**[12].** The scope of interference by this Court in the matter of punishment in disciplinary matters, that too in case of minor punishment, is very limited. This Court can interfere in the matter of imposition of punishment only when the punishment imposed is shockingly disproportionate. However, in facts of the present case, this Court does not find that the minor punishment imposed upon the petitioner is shockingly disproportionate looking to the gravity of allegation levelled against the petitioner.

**[13].** The petitioner has raised a singular ground in the writ petition regarding non-compliance of principles of natural justice. It is his submission that the respondent no.4 vide notice, dated 20.02.2011, cancelled the order, dated 04.11.2010, passed by respondent no.5 and thereafter issued notice proposing punishment. He submitted that the respondent no.4 ought to have first issued notice to the petitioner before cancelling the order passed by respondent no.5. He thus submitted that serious prejudice has been caused to the petitioner and the respondent no.4 was pre-determined to impose punishment on him.

**[14].** The objection so raised by the petitioner is found to be factually incorrect. A bare perusal of notice, dated 20.02.2011, (Annexure P/5) reflects that the order, dated 04.11.2010, was not cancelled in the said

notice. In fact the respondent no.4 asked the petitioner to show cause as to why the order, dated 04.11.2010, be not cancelled and punishment of stoppage of one increment without cumulative effect be imposed upon the petitioner. Thus, the objection raised by petitioner in the writ petition is non-existence and is accordingly rejected.

**[15].** During the course of arguments, learned Senior Counsel challenged the impugned orders also on the ground that the impugned action initiated by respondent no.4 ought to have been initiated and concluded within a period of six months from the date of issuance of order by respondent no.5. He submitted that since the impugned order of punishment is passed beyond the period of six months, the same is unsustainable in law. He placed reliance upon the Coordinate Bench order of this Court in the case of **Brasang Dev Singh (supra)** and the order in the case of **Angad Singh Rathore (supra).**

**[16].** While considering the objections raised by learned Senior Counsel for the petitioner, the provisions of Regulation 270(4) of M.P. Police Regulations needs to be examined *viz-a-viz* the provisions of Madhya Pradesh Civil Services (Classification, Control & Appeal) Rules, 1966.

**[17].** Regulation 270(4) of Police Regulation provides as under:

> "270(4) The revising authority may for reason to be recorded in writing exonerate or may remit vary or enhance the punishment imposed or may order a fresh enquiry of the taking of further evidence in the case:
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> Provided that it shall not vary or reverse any order unless notice has been served on the parties interested and opportunity given to them for being heard."

**[18].** Perusal of the aforesaid provision makes it evident firstly that the respondent no.4 was competent to take the matter in *suo-motu* revision and

secondly there is no limitation prescribed for exercising this power. This Court in the case of **Angad Singh Rathore (supra)** and **Brasang Dev Singh (supra)** has held that the action initiated under Section 270(4) of M.P. Police Regulation should be concluded within a period of six months taking aid of provisions of Rule 29(1)(iii) of CCA Rules. It has been held that since there is no specific limitation prescribed under Section 270(4) of M.P. Police Regulations, the limitation as prescribed under Rule 29(1)(iii) of CCA Rules would be applicable. The similar view has been taken by the Coordinate Bench of this Court in the case of **Brasang Dev Singh (supra).**

**[19].** In the aforesaid two cases, the Coordinate Bench has barrowed the provisions of Rule 29(1)(iii) of CCA Rules solely on the ground that there is no limitation prescribed under Regulation 270(4) of M.P. Police Regulations. However, the provisions of schedule appended to CCA Rules was not brought to the notice of this Court in both the aforesaid cases. In fact the schedule appended to CCA Rules excludes applicability of CCA Rules on Class-III non-ministerial post in the Police Department. The relevant portion of the scheduled is reproduced hereunder:

> "Class III (Non-Ministerial) posts in the Police Department are governed by the Madhya Pradesh Police Regulations framed under the provisions of the Indian Police Act. The control and Appeal Rules, will, therefore, not apply to them."

**[20].** The petitioner was working as Sub-Inspector. The post of Sub-Inspector is an executive cadre post, meaning thereby it is a non-ministerial post as per Regulation 6(b) of M.P. Police Regulations. Further, as per Schedule I of Police Executive (Non-Gazetted) Service Recruitment Rules, 1997, the post of Sub-Inspector is a Class-III post. Thus, by virtue of the aforesaid exclusion clause in M.P. Police Regulations, the provisions

of CCA Rules are not attracted in the facts of the present case. Accordingly, the judgments rendered in the case of **Angad Singh Rathore (supra)** & **Brasang Dev Singh (supra)** are not applicable in the facts of present case.

**[21].** The aforesaid view taken by this Court finds support by the judgment of the Coordinate Bench of this Court rendered in the case of **Ramkrishna Mishra Vs. State of M.P. & Ors.** reported in **2011(5) M.P.H.T. 476** wherein this Court held as under:

> "**16.** In this cases also reliance was placed on the decision rendered in *Premchand Dhapuria (supra)*, however, it is to be noted that in these two cases in *Premchand Dhapuria (supra)* and *Krishna Narayan Dixit (supra)*, a provision as now appears in the schedule appended with Rules of 1966 regarding exclusion of applicability of Rules of 1966 in respect of Class III (Non Ministerial) posts in the Police Department are governed by the Madhya Pradesh Police Regulations framed under the provisions of Indian Police Act.
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> **17.** Though these decisions are taken note of in *Sushil Kumar Shrivastava (supra)*, the exclusion clause as it appear in the Rules of 1966 seems to have escaped, the notice in these two cases, therefore, the principle laid down therein will be of no help to the petitioner. Because it is Police Regulation 270 which would be applicable in case of the petitioner, a Sub-ordinate Police Officer belonging to Class III Non-Ministerial Cadre.
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> **18.** The said Regulation since nowhere prescribe the limitation period, the exercise of revisional power even after the expiry of six months from the date of order to be reviewed does not get vitiated."

**[22].** The argument regarding limitation of six months for passing order under Regulation 270(4) of M.P. Police Regulations, is not acceptable also in view of the recent Division Bench judgment of this Court at Gwalior Bench wherein it has been held that the period of six months can be

accepted for initiating proceedings under Regulation 270(4), however, there cannot be any limitation for concluding such proceedings inasmuch as conclusion of proceedings would be dependent upon various uncertain circumstances. This has been so held by Division Bench of this Court in the case of ***Kamla Krishna Sharma vs. State of M.P. & others*** passed in ***W.A. No.1874/2024***. The observations made by Division Bench in para 11 to 17 being relevant are reproduced hereunder:

> **11.** If this analogy is accepted then the purpose of legislative intent appears to be defeated. Proviso attached to rule 29 of the CCA Rules contemplates a situation whereby a Government servant concerned has to be given a reasonable opportunity of making a representation against the penalty proposed and if the review authority proposed to impose any of the penalties specified in clauses (v) to (ix) of Rule 10 or to enhance the penalty order sought to be reviewed to any of the penalties specified in those clauses, enquiry under rule 14 of the CCA Rules is to be held and consultation with Public Service Commission is to be carried out where such consultation is necessary.
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> **12.** It means that review authority first has to take decision within six months for review of the order. Thereafter, authority has to issue show cause to the delinquent employee who in turn would submit his representation and thereafter review authority would go to the conclusion whether minor penalty or major penalty as per clause (v) to (ix) of rule 10 of the CCA Rules is to be imposed. If enquiry is required then such enquiry would also consume time. All these procedures can not be completed within six months because these proceedings require time.
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> **13.** Even otherwise if a delinquent employee delays the matter and does not cooperate in the proceedings then he cannot be given premium over his mischief by holding that the review proceedings are to be necessarily concluded within six months. This would be nothing but a travesty of justice. Delay in proceedings would deny the opportunity to the review authority to punish the delinquent. Said perspective cannot be the legislative intent. Therefore, this contention deserves rejection.

**14.** Even otherwise, present petitioner is a Head Constable and he was governed by the M.P. Police Regulations. Regulation 270 deals in respect of suo motu revision by any competent authority superior to the authority making the order. As such no time limit has been prescribed in taking suo motu revision and service condition of Head Constable (Police) are governed by the M.P. Police Regulations. Nonetheless, period of limitation even if borrowed from rule 29 of the CCA Rules even then the said period of limitation does not come to the rescue of present petitioner.

**15.** The Division Bench of this Court in the case of **State of Madhya Pradesh and another Vs. Om Prakash Gupta and another, 2001(2) MPLJ 690** while interpreting rule 29 of the CCA Rules held that power of review could be exercised within a period of six months and not thereafter. In the said case, review authority taken the decision to review the order dated 04-02-1998 on 12-01-2012. Since it was the period exceeding period of six months as stipulated under rule 29 of the CCA Rules, therefore, in the fact situation it is held that after six months power of review cannot be exercised. Here, the order under challenge was passed on 22-03-2016 and matter has been taken under review jurisdiction on 05-05-2016 hence proceedings were initiated within six months. Although, final order was passed on 28-07-2017 but as discussed earlier the said order dated 28-07-2017 cannot be interfered with on the ground that the said proceeding of review ought to have been completed within six months. In the present case when review authority initiated the proceedings within six months, then conclusion of proceeding is immaterial.

**16.** This view is supported by the earlier Division Bench judgment of this Court in the case of **State of Madhya Pradesh and others Vs. Brijesh Niboria, 2007(2) MPLJ 273** wherein the Division Bench held in following manner:

> *"**7.** In the case of State of M.P. v. Prahlad, 1988 (1) MPWN 113, this High Court has also held that plain reading of the rule indicates that it fixes outer limit of six months to be calculated from the date of the order of the disciplinary authority when the power may be exercised by the Appellate Authority. The use of word "may" only indicates that it is not compulsory for him to exercise this power even within the period of six months. The Court has held that the Rule*

*does not vest in him any power after the expiry of period of six months. Therefore, the question before the Single Judge of the High Court of Madhya Pradesh was that whether the order can be reviewed under Rule 29(1) of the Rules of 1966 within a period of six months. Therefore, from the aforesaid judgment it is clear that the Appellate Authority may take decision and order proposed to be reviewed can be done within a period of six months and not beyond that, but that does not mean that after the review the entire exercise about the enhancement or confirmation, modification or setting aside the order should be completed within six months for that S.C. and Full Bench of CAT has held that it should be in reasonable time.*

***8.****We have also considered the Division Bench decision of this Court in the case of State of M.P. v. Om Prakash Gupta, 2001 (2) MPLJ 690, in which the similar question was involved before the Division Bench of this Court and it was held that a perusal of the aforesaid Rule clearly indicates that the provision relating to limitation of 6 months is in respect of the authorities referred to the Rule 29(1)(i)(ii) and (iii) of the Rules. The use of word "or" in the aforesaid rule is indicative of the fact that the power of review could be exercised by any of the authorities referred to in the Rule 29(1)(i)(ii) and (iii) of the Rules within a period of 6 months and not thereafter. This clearly indicates that decision regarding review of the order should be taken within a period of six months and that is the outer limit for that. Though the question before the Division Bench was not whether the final order should be passed within a period of six months, but after considering the provisions of Rule 29 of the Rules of 1966, we are of the view that Rule does not envisage that final decision should be taken within a period of six months as has been held by the Tribunal in the impugned order dated 16-11-2001 and argued by learned counsel for the respondent because once the decision is taken to review the order, then a detailed procedure is required to be*

*followed, which has been mentioned in Rule 29(1)(iv), (a), (b), (c), (d). After review, the authority may confirm, modify or set aside the order; or, confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or remit the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or pass such other order as it may deem fit. If after the review of the order, case is remitted for further enquiry, then certainly the same cannot be completed within a period of six months. Therefore, the aforesaid rider of six months cannot be made applicable for passing the final order after review. It can only be held that the Appellate Authority shall take a decision within a period of six months about reviewing the order. In this case the decision was taken by the State Government on 7-4-1994. In the order dated 7-4- 1994 it has been mentioned that the State Government exercising powers under Rule 29 proposed to review the order dated 27-10-1993 by which the penalty of censure was imposed on the incumbent. This order indicates that clear decision was taken by the authority on 7-4-1994 about reviewing the earlier order dated 27-10-1993, which was within a period of six months. But the learned Tribunal considering the period of six months has neither considered the order dated 7-4-1994 nor assigned any reason whether the whole exercise till imposing the final punishment is to be completed within a period of six months, therefore we find that the order passed by the Tribunal is not a reasoned order and the same has been passed without considering the effect of Rule 29(1)(iii) of Rule of 1966 and also without considering the effect of order dated 7-4-1999 by which the decision was taken by the State Government (Appellate Authority) to review the order."*

**17.** Logically also, it is to be seen that initiation of proceeding can be prescribed but not conclusion of it because of various factors including Opportunity of

> hearing, Nature of allegations, Enquiry if required to be initiated for imposing penalty and Non-cooperation of delinquent employee. All these factors (which are illustrative and not exhaustive in nature) contribute to conclusion of proceedings, therefore, these proceedings may prolong and go beyond six months. Therefore, prescription of six months period for conclusion of proceedings may lead to Injustice and Absurdity. Both are required to be avoided and be kept at bay.

**[23].** Thus, in view of the discussion made above, the orders passed by respondents no.1 to 4 are found to be legal and justified in the facts and circumstances of the case and the same does not warrant any interference by this Court in the present writ petition. The petition is accordingly, **dismissed**.

**(ASHISH SHROTI)**
**JUDGE**

Vpn/-