

**IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE RAVI MALIMATH,**

**CHIEF JUSTICE**

**&**

**HON'BLE SHRI JUSTICE PURUSHAINDRA KUMAR KAURAV**

**WRIT PETITION No.224 of 2001**

**Between:-**

**SHRI RAJ KUMAR JOUHARI  
(DECEASED)**

**THROUGH LEGAL REPRESENTATIVES**

**:**

**1. SMT. PRIYANKA JOHRI, WIFE OF  
ASHOK KUMAR SHRIVASTAVA, AGED  
ABOUT 26 YEARS, R/O BAHA,  
DISTRICT AGRA (UTTAR PRADESH).**

**2. KU. SHILPI, D/O RAJ KUMAR  
JOHRI, AGED ABOUT 22 YEARS,  
STUDENT;**

**3. VISHAL JOHRI, S/O RAJ KUMAR  
JOHRI, AGED ABOUT 21 YEARS,  
STUDENT;**

**4. KU. DIMPAL JOHRI, D/O RAJ  
KUMAR JOHRI, AGED ABOUT 20  
YEARS;**

**PETITIONER NOS. 2 TO 4 R/O DAMOLI,  
DISTRICT GWALIOR (MADHYA  
PRADESH)**

.....PETITIONERS

*(BY SHRI T.S. RUPRAH – SENIOR ADVOCATE ASSISTED  
BY SHRI PRABHAT SHUKLA - ADVOCATE )*

AND

1. STATE OF MADHYA PRADESH,  
THROUGH SECRETARY, LAW  
DEPARTMENT, GOVERNMENT OF  
MADHYA PRADESH, BHOPAL  
(MADHYA PRADESH).
2. THE DISTRICT AND SESSIONS JUDGE,  
MORENA, DISTRICT MORENA.
3. THE HIGH COURT OF JUDICATURE AT  
JABALPUR, THROUGH ITS  
REGISTRAR GENERAL, JABALPUR.

....RESPONDENTS

*(SHRI BRAJESH NATH MISHRA - ADVOCATE FOR  
RESPONDENTS NO. 2 AND 3)*

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Reserved on : 06.04.2022  
Delivered on : 13.04.2022

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Per : Justice Purushaindra Kumar Kaurav :

**ORDER**

The petitioner is aggrieved by order dated 26.10.1999 (Annexure-P-18) passed by the District and Sessions Judge, Morena (Disciplinary Authority), whereby the petitioner has been compulsorily retired and order dated 28.09.2000 (Annexure-P-20), whereby, appeal preferred by the petitioner to the appellate Authority has been dismissed. During the pendency of the writ petition, the petitioner has expired and, therefore, his legal representatives have been brought on record.

2. The facts of the case in short are that the petitioner at the relevant time, was working as Head Copiest in the Court of Shivpurkalan, District Morena. The petitioner was the President of Union of Class-III employees. On 05.02.1998, he was served with a show cause notice by the District and Sessions Judge, Morena, stating therein that in one objectionable pamphlet in the name of Vijay Kumar Garg was distributed by the petitioner to his fellow employee and the said pamphlet was also pasted at various places. The said pamphlets contained derogatory remark against Hon'ble the then Chief Justice and other Hon'ble Judges of the High Court of Madhya Pradesh. The petitioner was called upon to explain his conduct as *prima facie* the same was found to be against M.P. Civil Services (Conduct) Rules, 1965 (hereinafter referred to as the 'Rules of 1965' for short). The petitioner submitted his reply on 13.02.1998

denying all the charges and he pleaded his innocence. On 27.02.1998, the charge sheet was issued to the petitioner along with the imputation of charges, list of witnesses, list of documents etc. The petitioner replied to the said charge sheet on 05.06.1998. Being dissatisfied with the reply, so submitted by the petitioner, the disciplinary authority appointed IV Additional District Judge, Morena, as enquiry officer and one Batham was appointed as presenting officer. The petitioner was given full opportunity of hearing. After enquiry on 25.09.1999 (Annexure-P-15), enquiry report was sent to the disciplinary authority. On 29.09.2019 (Annexure-P-16), the petitioner was served with the enquiry report and the disciplinary authority imposed the punishment of removal from services under the M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter referred to as the 'Rules of 1966' for short). The petitioner submitted his reply on 11.10.1999. The disciplinary authority vide order dated 26.10.1999, considered case of the petitioner and instead of awarding proposed punishment from removal of services, a penalty of compulsory retirement has been imposed. The petitioner preferred appeal (Annexure-P-19) to the appellate authority, which has also been dismissed vide order dated 28.09.2000 (Annexure-P-20). Hence, the petitioner has filed

the instant petition, challenging the order of penalty and order of dismissal of his appeal.

3. Learned counsel for the petitioner has submitted that the order of compulsory retirement of the petitioner is completely improper. There is no evidence against the petitioner to prove that he has distributed objectionable pamphlets. In absence of any material, order of penalty suffers from non- application of mind. He, therefore, submits that instant writ petition deserves to be allowed while setting aside the order of penalty.

4. Learned counsels appearing for the respondents No. 2 and 3 submit that reading of objectionable pamphlets would clearly demonstrate that conduct of the petitioner is unpardonable. The author of the pamphlets Vijay Kumar Garg, Copiest, District Court, Morena, has been removed from the services after the departmental enquiry. During enquiry, Chief Judicial Magistrate, Morena, Shri R.P. Shilpi (PW/1), Peon namely Shiv Shankar Kulshreshtha (PW/2), Additional District Judge Shivpurkalan Shri B.K. Chhaparia (PW/3) and Civil Judge Class-I, Shivpurkalan, Shri Upendra Kumar Singh (PW/4) were examined in support of charges of misconduct. The original charge sheet was amended vide order dated 01.08.1998

(Annexure-P/9) and the date of incident which was earlier mentioned as 03.02.1998, was amended as 23.01.1998. Accordingly, the petitioner was allowed to further cross-examine the departmental witnesses. The petitioner in his defence has examined Vijay Kumar Garg (DW/1) the author of objectionable pamphlets, Shri B.P. Sinha (DW/2), Shri Rajendra Kumar and one Manoj Kumar (DW/4). The statement of petitioner was recorded on 01.02.1999. The enquiry officer in his enquiry report found that the petitioner on 22.01.1998 pasted objectionable pamphlets in the premises of concerned Court. The conduct of the petitioner was found to be to be in violation of Rule 3 of M.P. Civil Services (Conduct) Rules, 1965 and, accordingly, a punishment under Rule 8 of Rules of 1966, for removal of the petitioner from services was proposed. The disciplinary authority has taken a lenient view and under the facts and circumstances of the present case, the entire evidence against the petitioner cannot be re-appreciated and, hence, the writ petition deserves to be dismissed.

5. Learned counsel for respondents No. 2 and 3 has placed reliance on the decisions of the Hon'ble Supreme Court in the cases of *B.C. Chaturvedi Vs. Union of India and others*<sup>1</sup>, *Union of India*

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1 (1995) 6 SCC 749

*and others Vs. P. Gunasekaran<sup>2</sup> Deputy General Manager (Appellate Authority) and others Vs. Ajai Kumar Shrivastava<sup>3</sup>*, and he submits that in view of the aforesaid legal position, the scope of judicial review is very limited.

6. The record shows that the following charges were made against the petitioner. The same are reproduced as under :-

“:-आरोप-पत्र:-

मै, जे0के0एस0राजपूत, जिला एवं सत्र न्यायाधीश, मुरैना एवं अनुशासनिक अधिकारी तुम श्री राजकुमार जोहरी, प्रतिलिपिकार न्यायालय अति0 जिला एवं सत्र न्यायाधीश, श्योपुरकलां पर निम्न आरोप लगाता हूँ :-

यह कि आप अति0 जिला एवं सत्र न्यायाधीश, श्योपुरकलां के अधीनस्त प्रतिलिपिकार के पद पर पदस्थ रहते हुये आपके द्वारा दिनांक 03-02-98 को श्री विजयकुमार गर्ग, प्रतिलिपिकार, मुरैना के हस्ताक्षर से जारी एवं सूचना-पत्र दिनांक 18-1-98 के पेम्प्लेट न्यायालय भवन श्योपुरकलां में चस्पा कराये गये। उक्त सूचना-पत्र में माननीय मुख्य न्यायाधिपति महोदय जबलपुर एवं अन्य माननीय न्यायाधिपति महोदय एवं मुरैना में पदस्थ न्यायाधीशगणों के प्रति प्रतिकूल टिप्पणी, की गई, जो माननीय मुख्य न्यायाधिपति महोदय एवं अन्य न्यायाधिपति महोदय एवं न्यायाधीशगणों सम्मान में विपरीत हैं।

इस प्रकार आपका उक्त कृत्य, म0प्र0 सिविल सेवा आचरण संहिता 1965 के नियम 3 के अन्तर्गत गंभीर कदाचरण की श्रेणी में आता है. जो म0प्र0 सिविल सेवा वर्गीकरण, नियंत्रण एवं अपील नियम 1966 के नियम 10 के अन्तर्गत दण्डनीय है।”

2 (2015) 2 SCC 610

3 (2021) 2 SCC 612

7. On 01.08.1998, in charge memo, the amendment was made with respect to the date. Instead of 03.02.1998, the same was replaced by 28.01.1998. The material available on record shows that II Civil Judge Class-I, Upendra Kumar (PW/4), stated that on 28.01.1998, on hearing noise in the Court premises, he called his reader to enquire into the reason, who informed him that certain objectionable pamphlets were being pasted and distributed. The said witness further stated that he directed the Court Clerk, Shri Manoj Gupta, to remove all those objectionable pamphlets. Shri B.K. Chhapariya (PW/3), Additional District Judge, was also informed about the entire incident. When the Court Clerk Shiv Shankar Kulshreshtha, informed that the petitioner was pasting objectionable pamphlets, the petitioner was called and he admitted his conduct and defended on the ground that he being President of the Union, was pasting the objectionable pamphlets.

8. We find that there is sufficient evidence against the petitioner and the decision making process in the instant case cannot be said to be illegal or improper. The scope of interference is very limited. The findings of disciplinary authority are based on material and this court cannot be expected to re-appreciate the entire evidence and substitute its own findings. The penalty of compulsory retirement



under the facts and circumstances of the present case cannot be said to be disproportionate or excessive so as to shock the judicial conscience. The findings are not perverse. The enquiry has been found to be in accordance with the procedure and principles of natural justice have also been followed. There is no allegation or material to establish malafide and under the aforesaid facts and circumstances, we are not inclined to interfere into the order passed by the disciplinary authority.

9. In view of aforesaid, the instant writ petition fails and is hereby dismissed.

**(RAVI MALIMATH)**  
**CHIEF JUSTICE**

**(PURUSHAINDR KUMAR KAURAV)**  
**JUDGE**

A.Praj.