HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 14908/2016

Dinesh Kumar Agrawal S/o Shri Babu Lal Agrawal, E-218, Bank Colony Murli Pura, Sikar Road, Jaipur-302039

----Petitioner

Versus

1. State of Rajasthan Through Secretary To The Government, Home Department, Government Of Rajasthan, Secretariat, Jaipur
2. Secretary To The Government, Department Of Personnel, Secretariat, Jaipur
3. Director General Of Police, Government Of Rajasthan, Police H.Q., Jaipur

----Respondents

For Petitioner(s)	:	Mr. H.V. Nandwana
For Respondent(s)	:	Mr. Vigyan Shah, AAG, alongwith Mr. Pulkit Bhardwaj & Mr. Vivek Guwalani

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HON'BLE MR. JUSTICE GANESH RAM MEENA

Order

Arguments concluded on	**:::**	**November 20, 2025**
Reserved on	**:::**	**November 20, 2025**
Pronounced on	**:::**	**January 13, 2026**

1. The petitioner has filed the present writ petition with a challenge to the charge-sheet dated 29.01.2008 (Annex.1), whereby a penalty of withholding of two annual grade increments without cumulative effect has been imposed upon him vide order dated 23.07.2008 (Annex.3) issued by the Director General of Police, Rajasthan, Jaipur. The petitioner has also challenged the order dated 08.01.2013

(Annex.6) passed by the Department of Personnel, Government of Rajasthan, Jaipur, whereby the appeal (Annex.4) filed by the appellant (present petitioner) against the penalty order was dismissed and so also the order dated 19/20.07.2016 (Annex.8) whereby the review petition preferred by him was also dismissed.

2. The brief facts relevant for consideration of this case are that the petitioner after duly selected by the Rajasthan Public Service Commission was given appointment in the Rajasthan Police Service on 27.12.1999. The petitioner was sent on deputation in the Excise Department in the year 2004-05 and was posted as Dy. Superintendent of Police in Excise Preventive Force, Bikaner. While the petitioner was posted as Dy. Superintendent of Police, Excise Preventive Force, Bikaner, he was served with a charge-sheet under Rule 17 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (for short 'the Rules of 1958') in view of certain causalities alleged to be caused because of illicit liquor.

3. The petitioner submitted his explanation to the charge-sheet and denied the charges leveled against him. The Director General of Police vide its order dated 23.07.2008 hold the petitioner guilty of the charges leveled against him and imposed a penalty of withholding of two annual grade increments without cumulative effect.

The petitioner then preferred an appeal before the Appellate Authority under Rule 23 of the Rules of 1958 so as to make challenge to the punishment order dated 23.07.2008, though the Dy. Secretary to the Government recorded the detailed reasons in the note-sheet of 20.07.2010 to accept the appeal of the appellant (present petitioner). However, the Appellate Authority called for a report from the Director General of Police and on the basis of the said report the Appellate Authority dismissed the appeal vide its order dated 08.01.2013. The petitioner then preferred a review petition before His Excellency the Governor of Rajasthan, so as to challenge the punishment order dated 23.07.2008 and the order of the Appellate Authority dated 08.01.2013. The review petition was too dismissed vide order dated 19/20.07.2016.

4. One of the basic submission made by the counsel appearing for the petitioner is that the Disciplinary Authority, the Appellate Authority and so also the Reviewing Authority have not taken into consideration the explanation submitted by the petitioner while passing the impugned orders. It is submitted that the impugned orders are non-speaking one as no reasons have been assigned for disbelieving the explanation submitted by the petitioner and also for recording the findings of guilty against him. It is also submitted that it is the basic principle of service jurisprudence that any order

adverse to an employee must be reasoned and speaking one. Any non-speaking order or order which does not specify the reasons, would be treated to be violation of principles of natural justice. Counsel further submitted that the Appellate Authority while considering the appeal, though there were favourable comments from the Department, called for a report from the Director General of Police/Excise Department and without putting the report in the knowledge of the petitioner and without disclosing the fact of summoning the report, the Appellate Authority has passed the impugned order on the basis of such report. Counsel also submitted that the order of the Appellate Authority is in gross violation of the principles of natural justice and it is apparently a non-speaking order. No reasons have been given discarding the grounds raised in memo of appeal and submissions made during personal hearing. It was also submitted by the counsel appearing for the petitioner that one other employee namely; Purshottam Dass facing the similar charges has been exonerated by its Appellate Authority after taking into consideration the same plea as has been submitted by the present petitioner. Counsel also submitted that Rule 14 of the Rules of 1958 mandates a speaking order by the Disciplinary Authority containing the reasons for arriving to a conclusion but the respondents have ignored the mandate of Rule 14

also. To support his submissions, counsel appearing for the petitioner has placed reliance upon following judgments:-

(a) Narain Singh Rawat v. State of Rajasthan & Anr., reported in RLR 1992 (1) 538 delivered by the Coordinate Bench of this Court;

(b) Pratap singh v. Superintendent of Police & Ors., reported in 2002 SCC Online Raj. 268, delivered by the Rajasthan High Court;

(c) Divisional Forest Officer, Kothagudem & Ors. v. Madhusudhan Rao, reported in (2008) 3 SCC 469 delivered by the Hon'ble Apex Court;

(d) Chairman, Disciplinary Authority Rani Lakshmi Bai Kshetriya Gramin Bank v. Jagdish Sharan Vashney & Ors., reported in (2009) 4 SCC 240 delivered by the Hon'ble Apex Court;

(e) Raghuveer Singh v. State of Rajasthan, reported in 2024 Supreme (Rajasthan) 671, delivered by this Court; and

(f) Narayan Lal Tiwari v. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.1983/2016) decided by the Coordinate Bench of this Court on 27.08.2019.

5. Learned AAG appearing for the respondents submitted that due application of mind is there as is evident from the official report, though the impugned order may not be a speaking one. He also submitted that the Appellate Authority after due application of mind on a report called from the Director General of Police/Excise Department, as regards the allegations leveled against the petitioner, has dismissed the appeal. To support his submissions, the learned AAG has placed reliance upon following judgments:-

(a) State Bank of India & Ors. v. Ramesh Dinkar Pathak, reported in (2006) 7 SCC 212 delivered by the Hon'ble Apex Court; and

(b) Deputy General Manager (Appellate Authority) & Ors. v. Ajay Kumar Srivastava, reported in (2021) 2 SCC 612 delivered by the Hon'ble Apex Court.

6. Considered the submissions made at Bar and also perused the material made available on record including the judgments cited by the counsels appearing for the respective parties.

7. The petitioner was served with a charge-sheet dated 29.01.2008 under Rule 17 of the Rules of 1958 whereby three charges have been alleged against him. The basic charge is that the petitioner was negligent towards his duties by not taking proper precautions to stop production and distribution/sale of handmade liquor resulting into causalities of 33 persons because of consuming poisonous liquor. It has been alleged that the petitioner has not discharged his duty properly so as to curb the poisonous liquor, though he was entrusted with this work. The petitioner submitted a detailed explanation (Annex.2) as regards each of the charges and denied the charges. The Disciplinary Authority i.e. the Director General of Police, Rajasthan, vide its order dated 23.07.2008 held the petitioner guilty of the charges and imposed a penalty of withholding of two annual grade increments without cumulative effect observing that he is not satisfied or convinced with the explanation given by the

petitioner and so also the submissions made by him during personal hearing. The Disciplinary Authority has not recorded any reasoning why and on ground the explanation submitted by the petitioner is not convincing. The Disciplinary Authority in its order dated 23.07.2008 after recording the charges leveled against the petitioner in the memorandum of charges and the explanation submitted by the petitioner has recorded his findings that he is not satisfied with the explanation. The relevant part of the order of the Disciplinary Authority is quoted as under:-

> "अपचारी अधिकारी को दिनांक *26.06.2008* को व्यक्तिगत सुनवाई का अवसर दिया जाकर व्यक्तिगत रूप से सुना गया। व्यक्तिगत सुनवाई के दौरान इन्होने अपने लिखित जवाब के अलावा अन्य कोई नये तथ्य नहीं बताये।
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> मैंने इस विभागीय जांच से संबंधित समस्त पत्रादि, आरोप पत्र, अपचारी अधिकारी के जवाब आदि का भली भांति गहन अध्ययन व मनन किया। अपचारी अधिकारी ने व्यक्तिगत सुनवाई के दौरान जो तथ्य प्रस्तुत किये उनसे मैं सन्तुष्ट नही हूँ। समस्त तथ्यों एवं साक्ष्यों के आधार पर यह पाया गया है किं अपचारी अधिकारी पर लगाये आरोप प्रमाणित पाये जाने पर इस विभागीय जांच में निम्न निर्णय किया जाता है:-
>
> श्री दिनेश अग्रवाल, आर०पी०एस० तत्कालीन उप अधीक्षक पुलिस आबकारी निरोधक दल, बीकानेर हाल जिला सीकर के विरूद्ध आरोप प्रमाणित पाये जाने पर इनकी दो वार्षिक वेतन वृद्धि बिना भविष्य प्रभाव से अवरूद्ध करने के दण्ड से दण्डित किया जाता है।"

8. The aforesaid observations of the Disciplinary Authority clearly speaks that no reasons have been recorded for not accepting the explanation submitted by the petitioner and for holding the petitioner guilty of the charges leveled against him.

9. Being aggrieved by the order of the Disciplinary Authority, the petitioner preferred an appeal (Annex.4) under Rule 23 of the Rules of 1958 before the Appellate Authority.

The Dy. Secretary in his comments has recommended for allowing the appeal and also recommended for setting aside the punishment order. The Dy. Secretary in his comments regarding charge No.1 has specifically stated that the petitioner was not responsible to arrest the accused Mahendra Kanjar. As regards charge No.2, the Dy. Secretary has observed that it was the duty of the Circle Inspector for lodging the FIR, investigating into the matter and arresting the accused and not that of the present petitioner and therefore, the charge No.2 does not seem to be proved against the petitioner. The Dy. Secretary in his comments as regards the charge No.3 has stated that the Disciplinary Authority has not taken into consideration the explanation submitted by the petitioner. The Dy. Secretary has also observed in its comments that the punishment order is not a self speaking or analytic one. The relevant part of the comments made by the Dy. Secretary is quoted as follows:-

> "अपीलार्थी ने यह भी अवगत कराया है कि इसी प्रकरण में महानिरीक्षक, पुलिस द्वारा अधीनस्थ उप निरीक्षक श्री पुरुषोत्तमदास को सी.सी.ए. नियमों के नियम *17* के तहत आरोपित किया गया था एवं उनके विरूद्ध दण्डादेश पारित कर दो वार्षिक वेतन वृद्धि असंचयी प्रभाव से रोके जाने के दण्ड से दण्डित किया गया था जिसकी अपील शासन प्रमुख सचिव, गृह विभाग द्वारा स्वीकार की जाकर अनुशासनिक अधिकारी के आदेश को अपास्त कर दिया है *(पृष्ठ 85/सी)*। इस तरह से जब अधीनस्थ उप निरीक्षक के दण्डादेश को ही अपील में शासन प्रमुख सचिव द्वारा अपास्त किया जा चुका है ऐसी स्थिति में अपीलार्थी के विरूद्ध दण्डादेश पारित किया जाना उचित नहीं है। जब कि अपीलार्थी ने अपील में दिए गए तथ्यों के अनुसार एवं उठाए गए बिन्दुओं के आधार पर यह साबित करने का प्रयास किया है कि शराब दुखान्तिका में अपीलार्थी की कोई लापरवाही नहीं रही है। दुखान्तिका केवल *202* दुकानों के बदले *18* दुकानें खोली जाने की वजह से हुई है एवं दुखान्तिका के बाद सरकार द्वारा काफी दुकानें खोली गई है, यदि पूर्व में ही ऐसी दुकानें खोल दी जाती तो इस दुखान्तिका को टाला जा सकता था।
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> उपरोक्त विवेचन के आधार पर अपीलार्थी के विरुद्ध जो दण्डादेश पारित किया गया है वह दण्डादेश स्वतः स्पष्ट *(Self speaking)* एवं तार्किक

(analytic) नहीं है। अनुशासनिक अधिकारी ने अपने निर्णय में अपीलार्थी से असहमत होने का कोई कारण उल्लेखित नहीं किया है साथ ही अपीलार्थी ने जो अपनी अपील में तथ्य अवगत कराए है वह विचारणीय है जिनके आधार पर अपीलार्थी ने यह साबित करने का प्रयास किया है कि उनके विरुद्ध विरचित आरोप तथ्यात्मक रूप से सही नहीं है। जिस आरोप में महेन्द्र कंजर को अभियुक्त बनाने एवं गिरफ्तार करने के लिए आरोपित किया गया है, उस महेन्द्र कंजर को माननीय न्यायालय द्वारा दोनों प्रकरणों में दोषमुक्त किया जा चुका है एवं उक्त महेन्द्र कंजर को गिरफ्तार करने की जिम्मेदारी आबकारी वृत्त निरीक्षक की थी जो कि प्रत्यक्ष रूप से आबकारी अधिकारी के अधीनस्थ है न कि अपीलार्थी के। इसी प्रकरण में अधीनस्थ उप निरीक्षक को जो आरोपित किया जाकर दो वेतनवृद्धि असंचयी प्रभाव से रोके जाने का दण्डादेश अनुशासनिक अधिकारी द्वारा पारित किया गया था वह आदेश शासन प्रमुख सचिव, गृह के यहां की गई अपील में अपास्त हो चुका है ऐसी स्थिति में जब महेन्द्र कंजर को माननीय न्यायालय द्वारा बरी किया जा चुका है, अधीनस्थ उप निरीक्षक पुरूषोत्तम दास को अपील में अनुतोष प्राप्त हो चुका है तो अपीलार्थी को दण्डित किया जाना उचित नहीं है।

अतः पत्रावली पर उपलब्ध समस्त दस्तावेजात एवं साक्ष्य के अवलोकन के बाद यह मानना निराधार नहीं है कि अपीलाधीन आदेश में अनुशासनिक अधिकारी ने तार्किक विश्लेषण नहीं किया है एवं अपीलार्थी द्वारा प्रस्तुत अभिकथन में उल्लेखित तथ्यों की ओर ध्यान नहीं दिया है, अतः प्रस्तुत अपील स्वीकार की जाकर अनुशासनिक अधिकारी का आदेश कमांक व. *13(46)*पुलिस-फोर्स */डी.ई./2007/4782* दिनांक *16.07.2008 (*जांच पत्रावली के पृष्ठ *135-136/*सी*)* अपास्त किया जाना प्रस्तावित है।"

10. Vide letter dated 16.02.2012 the Appellate Authority called for the comments from the Director General of Police and in response to that the Dy. Inspector General of Police (Vigilance), Rajasthan, Jaipur, submitted the comments and relying upon those comments, the Appellate Authority has dismissed the appeal.

It was submitted by the counsel appearing for the petitioner that once the hearing of the appeal was concluded, calling of comments from any Authority by the Appellate Authority is illegal and arbitrary. It was also submitted that the comments which have been relied upon by the Appellate Authority were neither disclosed to the petitioner nor the petitioner was given opportunity to counter those comments.

He has also submitted that the aforesaid comments seem to contain false facts.

11. On perusal of the order of the Appellate Authority, the Court finds that it has only observed that there is no substance in the appeal. No reasons have been assigned by the Appellate Authority for discarding the averments and the grounds raised in the appeal and so also the submissions made during personal hearing. It has been submitted by the learned AAG that the Appellate Authority before passing the order and in dismissing the appeal, has made due application of his mind by considering the material available on the record and so also the report summoned from the concerned Authority during the pendency of the appeal. He submitted that when the record reveals that there is due application of mind in issuing the orders under challenge, the order does not require to be reasoned or speaking order.

12. The Reviewing Authority while passing the order dated 19/20.07.2016 has also not given any reasons for disbelieving or discarding the explanation of the petitioner that why they are not satisfied with the explanation. The petitioner in his appeal and the review petition has also raised the ground that one Purshottam Dass, who was also facing the similar charges, has been exonerated by the Appellate Authority by setting aside the punishment order. The Appellate Authority as well as the Reviewing Authority did not

even care to consider the said grounds raised by the petitioner. Meaning-thereby, the orders passed by the Disciplinary Authority, Appellate Authority and the Reviewing Authority are non-speaking and unreasoned orders.

13. Whether the Disciplinary Authority or the Appellate Authority or the Reviewing Authority were not under an obligation to pass a reasoned and speaking order? Learned AAG appearing for the respondents has submitted that once there is a due application of mind by the Authority over the material available on the record, passing reasoned order is not necessary. He has referred para 22 of the Judgment delivered by the Hon'ble Apex Court in the case of ***Ajay Kumar Srivastava (supra)***, which is quoted as under:-

> *"22. The power of judicial review in the matters of disciplinary inquiries, exercised by the departmental/appellate authorities discharged by constitutional Courts under Article 226 or Article 32 or Article 136 of the Constitution of India is circumscribed by limits of correcting errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice and it is not akin to adjudication of the case on merits as an appellate authority which has been earlier examined by this Court in State of Tamil Nadu Vs. T.V. Venugopalan and later in Government of T.N. and Another Vs. A. Rajapandian and further examined by the three Judge Bench of this Court in B.C. Chaturvedi Vs. Union of India and Others wherein it has been held as under:*

"13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary enquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel [(1964) 4 SCR 718] this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

14. Learned AAG has also referred para 17 of the Judgment delivered by the Hon'ble Apex Court in the case of ***Ramesh Dinkar Pathak (supra),*** which is quoted as under:-

"17. In Union Bank of India v. Vishwa Mohan this Court held at page 315 para 12 as under:

"12. After hearing the rival contentions, we are of the firm view that all the four charge sheets which were inquired into relate to serious misconduct. The respondent was unable to demonstrate before us how prejudice was caused to him due to non-supply of the enquiry authority's report/findings in the present case. It needs to be emphasised that in the banking business absolute devotion, diligence, integrity and honesty needs to be preserved by

every bank employee and in particular the bank officer. If this is not observed, the confidence of the public/depositors would be impaired. It is for this reason, we are of the opinion that the High Court had committed an error while setting aside the order of dismissal of the respondent on the ground of prejudice on account of non-furnishing of the inquiry report/findings to him."

15. It is submitted by the learned AAG that the petitioner has not been able to show that what prejudice has been caused to him because of non giving the reasons for recording the findings of guilty.

16. On the other hand learned counsel appearing for the petitioner has referred para 11 of the judgment delivered by the Coordinate Bench of this Court in the case of ***Narain Singh Rawat (supra),*** which is quoted as under:-

"11. Even otherwise the impugned order dated 23.1.84 is not sustainable from any point of view. The proceedings were initiated against the petitioner under Rule 17 of 1958 Rules. In response to the notice issued by the Commissioner, Commercial Taxes the petitioner submitted a detailed reply on 21.12.83. He was then called upon to submit medical certificate, prescription and bills of medicines. The petitioner submitted the certificate of Doctor on 16.1.84. However, without giving any reason the disciplinary authority has held that the explanation submitted by the petitioner was not satisfactory. None of the facts which have been

mentioned in the reply has even been adverted by the Commissioner before passing the order of punishment.

12. Rule 17 of 1958 Rules reads as under-

17. Procedure for imposing minor penalties-*No order imposing any of the penalties specified in clause (i) and (iii) of rule 14 shall be passed except after –*

(a) The Government Servant is informed in writing of the proposal to take action against him and of the allegations on which it is proposed to be taken and given an opportunity to make any representation he may wish to make;

(aa) holding an enquiry, in the manner laid down in Rule 16, in every case, in which it is proposed to with–hold increments of pay for a period exceeding three years, or with cumulative effect for any period or so as to adversely affect the amount of pension payable to him or in which the Disciplinary Authority is of the opinion that such inquiry is necessary;

(b) such representation, if any submitted by the Government Servant under clause (a), and the record of enquiry, if any, held under clause (aa), is taken into consideration by the Disciplinary Authority;

(c) an opportunity of personal hearing is given by the Disciplinary Authority to the Government Servant to explain his case, if so desired by him;

(d) The Commission is consulted in cases where such consultation is necessary.

(2) The record of proceedings in such cases shall include:–

(i) a copy of the intimation to the Government Servant of the proposal to take action against him;
(ii) a copy of the statement of allegations communicated to him;
(iii) his representation, if any;
(iv) the evidence produced during the enquiry;
(v) the findings of each allegation;
(vi) the advice of the Commission, if any; and
(vii) the orders on the cases together with the reasons therefore.

A bare look at Rule 17(1) (b) shows that the competent authority is required to take into consideration representations, if any, made by the Govt. servant. The word 'consideration' implies of objective application of mind by the competent authority. This objective application of mind must be manifested in the order of punishment itself. In other words, the order of punishment passed on the basis of a notice issued under Rule 17 must be a speaking order i.e., it must contain reasons on the basis of which the disciplinary authority or any other competent authority holds that the allegation/s levelled against the Govt. servant have been proved and for good reasons a particular punishment has been imposed. Rule 14 of 1958 Rules begins with the words "the following penalties may, for good and sufficient reasons, which shall be recorded and as hereinafter provided, be imposed on a Government Servant.....". Therefore, before any penalty can be imposed, it is a statutory obligation of the disciplinary authority to record reasons and such reasons must be good and sufficient. This requirement is applicable in all cases where any of

the punishments specified in Rule 14 is imposed on the government servant. Recording of good and sufficient reasons constitute a condition precedent for imposition of a punishment. If the word 'consideration' as used in Rule 17(1)(b) is read with the opening words of Rule 14, it becomes clear that the competent authority must take a decision for imposition of any of the penalties specified in Rule 14 only after it feels convinced with (sic that) the explanation submitted by a government servant is not satisfactory and that there are good and sufficient reasons for imposing a penalty while recording of reasons is provided by the Rule itself, principles of natural justice warrant that such reasons must be communicated to the delinquent. It is significant to note that the government servant has a statutory right of appeal against the order of punishment under Rule 23 of the 1958 Rules. If the order of punishment does not contain reasons, much less good and sufficient reasons, the government servant is seriously handicapped in submitting his appeal. At the sametime, the appellate authority is deprived of an opportunity to examine the appeal with reference to the requirements of Rule 23(2) of the 1958 Rules. Unless reasons are communicated to the delinquent employee so that he can effectively assail that order in appeal the right of appeal conferred upon the Govt. servant will be reduced to farce. In ***Gujarat Testeels Ltd. v. N. M. Desai****. A Full Bench of Gujarat High Court had an occasion to examine the requirements of passing of a speaking order by a quasi judicial authority. After examining the American and English Law on the subject Bhagwati, J. (as he then was) observed that recording of reasons and*

communication thereof constitute an integral part of the principles of natural justice. Their Lordships observed that merely by giving reasons or by keeping silence the quasi judicial authority cannot frustrate or stultify the power of judicial review vest on the High Courts under Art. 227 of the Constitution and on the Supreme Court under Art. 137 of the Constitution. There has been several decisions of the Supreme Court on the subject of speaking orders but it would be sufficient to refer to the recent decision of the Suprme Court in ***S. N. Mukherjee v. Union of India*** *wherein a Constitution Bench of the Supreme Court has after examination of almost all earlier decisions of the Suprme Court stated thus-*

> *"39. For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision.*
>
> *40. We may now come to the second part of the question, namely, whether the confirming authority is required to record its reasons for confirming the finding and sentence of the court-martial and the Central Government or the competent authority entitled to deal with the post-confirmation petition is required to record its reasons for the order passed by it on such petition. For that purpose it will be necessary to determine whether the Act or the Army Rules, 1954 (hereinafter referred to as 'the Rules') expressly or by necessary implication dispense with the requirement of recording*

reasons. We propose to consider this aspect in a broader perspective to include the findings and sentences of the court-martial and examine whether reasons are required to be recorded at the stage of (i) recording of findings and sentence by the court-martial (ii) confirmation of the findings and sentence of the court-material and (iii) consideration of post-confirmation petition."

13. In the case of minor penalty this Court has in ***Vedpal Krishna Dheer v. The State of Rajasthan and another*** *held that the disciplinary authority is required to record and communicate the reasons to the delinquent even in the cases where punishment specified in Rule 14(i) and (ii) is imposed. In addition to what has been held in Vedpal Krishna Dheer's case, I would observe that even the Court is entitled to examine on merits whether the reasons given by the disciplinary authority for imposing a particular punishment are legally sustainable or not and as to whether there is sufficient justification for imposition of a particular penalty. By failing to record reasons or by failing to communicate the same to the delinquent, the disciplinary authority cannot take away the right of employees to seek effective judicial review of the order of penalty."*

17. In the case of ***Pratap Singh (supra),*** the Rajasthan High Court in para 14 has observed as under:-

"14. The order of punishment which is passed in quasi-judicial proceedings must contain some reasons. Mere recording of conclusions is not sufficient for compliance

of the requirement of principles of natural justice as well as Rule 14 of the CCA Rules. Merely recording one line conclusion that after going through the record, the charges levelled against the delinquent official are fully proved is not sufficient. The order must contain reasons, which could show application of mind and which could disclose mental application of the competent authority to the contents of the inquiry report and connected record. Apart from this, points raised by the delinquent official in the representation must be considered by the competent authority and good and sufficient reasons must be recorded as to why they were not being cited upon. In this respect, the decisions of this Court in Ramdeo Singh v. R.S.R.T.C. (WLR 1992 (5) Raj. 696) and Narain Singh v. State of Raj. (RLR 1992 (1) 558) may be referred to."

18. The Hon'ble Apex Court in the case of ***Divisional Forest Officer, Kathagudem & Ors. (supra)*** has observed in para 19 as under:-

"19. Having considered the submissions made on behalf of the respective parties and also having regard to the detailed manner in which the Andhra Pradesh Administrative Tribunal had dealt with the matter, including the explanation given regarding the disbursement of the money received by the respondent, we see no reason to differ with the view taken by the Administrative Tribunal and endorsed by the High Court. No doubt, the Divisional Forest Officer dealt with the matter in detail, but it was also the duty of the appellate authority to give at least some reasons

for rejecting the appeal preferred by the respondent. A similar duty was cast on the revisional authority being the highest authority in the Department of Forests in the State. Unfortunately, even the revisional authority has merely indicated that the decision of the Divisional Forest Officer had been examined by the Conservator of Forests, Khammam wherein the charge of misappropriation was clearly proved. He too did not consider the defence case as made out by the respondent herein and simply endorsed the punishment of dismissal though reducing it to removal from service."

19. The Hon'ble Apex Court in the case of ***Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank (supra)*** in para 9 has observed as under:-

"9. No doubt, in S. N. Mukherjee's case (supra), it has been observed that: (SCC p. 613, para 36)

> *"..The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge."*

The above observation, in our opinion, really means that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it cannot be understood to mean that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one

line orders stating that they agree with the view of the lower authority."

20. The Coordinate Bench of this Court in the case of ***Narayan Lal Tiwari (supra)*** in paras 12 and 13 has observed as under:-

"12. Thus it is clearly a legislative mandate that it was for the disciplinary authority to record reasons to arrive at conclusion that a penalty has to be awarded under Rule 14 of Rules of 1958 for good and sufficient reasons. The impugned order carries the mentioning of charge, the stand of the petitioner and the conclusion arrived. The conclusion arrived at by the disciplinary authority reads as followed:

"मैनें आरोपित इन्सपेक्टर के नोटिस, जवाब एवं सम्बन्धित समस्त दस्तावेजात का भली प्रकार अध्ययन एवं मनन किया और दिनांक *29-1-2009* को साक्षात्कार में सुना, तो पाया कि आरोपित ने लगाये गये आरोपों के सम्बन्ध में ऐसा कोई तर्क प्रस्तुत नहीं किया जो आरोपित की निर्दोषिता में सहायक हो। आरोपित द्वारा वृंताधिकारी-अदोर्शनगर के पत्र क्रमांक *207-12* दिनांक *23-1-2008* एवं *3205-06*, दिनांक *15-11-2008* में दिये गये निर्देशों की अवहेलना की है। आरोपित इन्सपेक्टर पर आरोप प्रमाणित है। अतः प्रमाणित आरोप में निम्न आदेश देता हूँ *:-*"

13. On perusal of the conclusion reached by the respondent authority this court comes to a conclusion that the authority has not been able to give reasons of the exact default on the part of the petitioner in not adhering to the roster prescribed. In case the authority was required to pass an order, at least a simple explanation regarding the roster system and the violation made or attributed to the petitioner, should have been assessed and recorded. Upon not recording even the basic violation of the roster prescribed and the attribution to the present petitioner, the order does

not confirm to the mandate of Rule 14 of the CCA Rules."

21. This Court in the case of ***Raghuveer Singh (supra)*** has observed in paras 23, 24, 25, 26 and 27 as under:-

"23. The basic feature of Rule 17 of the Rules of 1958 is that the concerned Disciplinary Authority before passing order imposing penalty of 'Censure' has to disclose the petitioner the intention of the authorities of initiating disciplinary action against him i.e. by issuing a charge-sheet giving out the details of the allegations and has to be given an opportunity to make any representation, meaning-thereby the delinquent person is to be given an opportunity of submitting explanation for the allegations levelled against him.

The intention of Rule Framing Authorities while making Rule 17, from the language of the Rule, very clearly is of the view that before taking any action against a Government servant he should be informed and the intention of disciplinary action against him by disclosing the allegations against him and allowing an opportunity to submit his explanation to the allegations and only thereafter the order imposing penalty can be passed if after considering the allegations levelled against the Government servant and the explanation submitted by that Government servant, the Disciplinary Authority comes to the conclusion that allegations against the Government servant are found to be proved based on the material available on record to support the allegations. The satisfaction of the Disciplinary Authority is to be disclosed in the order imposing the penalty by a speaking order i.e. by giving reasons for

not accepting the explanation submitted by the Government servant discussing the material allegations which could prove or disprove the allegations.

Disciplinary Authority merely stating that the explanation submitted by the Government servant is not satisfactory, is not sufficient of the Rule 14. In view of the language of Rule 14, the Disciplinary Authority is under an obligation to make an observation giving out the reasons for not accepting the explanation submitted by the petitioner. In the present case the petitioner has submitted explanation with the specific averments which have not been even discussed by the Disciplinary Authority in the order imposing the penalty. The provision in rules for allowing opportunity to show cause and hearing also includes that the explanation and submission made during personal hearing should be considered mindfully by giving reasons.

24. On perusal of the orders passed by the Appellate Authority and Reviewing Authority, it is found that the order shave been passed on the same pattern as has been passed by the Disciplinary Authority without disclosing and giving out the reasons in not accepting the explanation of the petitioner.

25. The Hon'ble Supreme Court of India in the case of ***UPSRTC Vs. Jagdish Prasad Gupta, Civil Appeal No. 1883/2009 (Arising out of SLP(C) No. 4465/2006decided on March 25, 2009*** *has observed as under:-*

"8. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court

ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court's judgment not sustainable.

9. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engineering Union(1971 (1) All E.R. 1148) observed "The giving of reasons is one of the fundamentals of good administration". In Alexander Machinery (Dudley) Ltd. v. Crabtree (1974 LCR120) it was observed: "Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily

incongruous with a judicial or quasi-judicial performance.

10. This Court in State of Orissa v. Dhaniram Luhar (2004 (5) SCC 568) has while reiterating the view expressed in the earlier cases for the past two decades emphasised the necessity, duty and obligation of the High Court to record reasons in disposing of such cases. The hallmark of a judgment/order and exercise of judicial power by a judicial forum is to disclose the reasons for its decision and giving of reasons has been always insisted upon as one of the fundamentals of sound administration justice delivery system, to make known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of principles of natural justice. Any judicial power has to be judiciously exercised and the mere fact that discretion is vested with the court/forum to exercise the same either way does not constitute any license to exercise it at whims or fancies and arbitrarily as used to be conveyed by the well-known saying: "varying according to the Chancellor's foot". Arbitrariness has been always held to be the anathema of judicial exercise of any power, all the more so when such orders are amenable to challenge further before higher forums. Such ritualistic observations and summary disposal which has the effect of, at times, cannot be said to be a proper and judicial manner of disposing of judiciously the claim before the courts. The giving of reasons for a decision is an essential

attribute of judicial and judicious disposal of a matter before courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the court concerned had really applied its mind."

26. This Court in the case of ***Sriram Meena Vs. State of Rajasthan & Ors. S.B. Civil Writ Petition No. 817/2002 decided on 11.10.2023****, has issued directions in regard to the necessity of passing a reasoned and speaking order. The relevant para is quoted as under:-*

"16. A speaking order ensures that the principles of natural justice are followed. To give reasons for the decision is a requirement of the principles of natural justice. The order would show which particular circumstance received due consideration while arriving at the decision. As held in Kishan Lal v. UOI [1998] 97 Taxman 556 (SC), a speaking order reduces arbitrariness. A reasoned order speaks for itself. It embodies in itself the principles of natural justice. In the case of Asstt. Commissioner Commercial Tax Department, Works Contract and Leasing Quota v. Shukla & Bros. [2010] (4) JT 35, the Supreme Court observed that it shall be obligatory on the part of the judicial or quasi-judicial authority to pass a reasoned order while exercising statutory jurisdiction. In the absence of a reasoned order, it would become a tool for harassment.

17. A principle which has developed in course of time is that the order which is passed affecting the

rights of an individual must be a speaking order. This is necessary with a view to exclude the possibility of arbitrariness in the action. A bald order requiring no reason to support it may be passed in an arbitrary and irresponsible manner. It is tile reason for passing an order, which checks the arbitrariness. It is a step in furtherance of achieving the end where society is governed by Rule of law."

27. The basic principle of the service jurisprudence is that whenever an adverse order is passed against a Government servant then it must be in such a manner that it could show that there is a proper application of mind. An order passed without application of mind, is illegal and arbitrary and same is not sustainable in eyes of law. The Disciplinary Authority must consider the facts on record i.e. the allegations against the Government servant and the written explanation, oral submissions made by the Government servant before passing the order of penalty and such an order imposing penalty must contain good and sufficient reasons. Orders imposing penalty must be speaking orders containing the reasons for coming to such conclusion of holding the delinquent employee guilty of any misconduct and the reasons for holding the charges proved against that delinquent employee. Failure on the part of the Disciplinary Authority not disclosing the reasons for reasons of not accepting the explanation of the petitioner cannot be said to be a speaking order and the order which fails to disclose the reasons is an illegal order and cannot be sustained. The Co-ordinate Bench of this Court in case of ***Jasram Jat***

Vs. Inspector General of Police & Vs. S.B. Civil Writ Petition No. 759/2012 decided on 11.10.2023 *has observed as under:-*

> *"16. It is true that while exercising the powers contained under Article 226 of the Constitution of India, the High Court should no function as a court of appeal over the findings of the Disciplinary Authority. Such orders can be interfered only when there is "no evidence" in the Departmental Enquiry.*
>
> *18. Perusal of the impugned order indicate that both Disciplinary and Appellate Authority have acted in a cursory manner and have passed the impugned orders in a casual manner without assigning good and sufficient reasons. Both these orders are perverse and are not in accordance with law. It is true that discipline is the hallmark of disciplinary forces like police etc. and each and every member of the disciplinary forces are supposed and expected to behave in a disciplined manner and they are not supposed to violate the discipline by consuming liquor in public space or should arrive in public place in a drunken position. Drinking in open public place or street is not permissible and the same amounts to an offence under Section 34 of the Police Act.*
>
> *19. As per Rule 26 of the Rajasthan Civil Services (Conduct) Rules, 1971 (for short, 'Rules of 1971') a government servant shall strictly abide by the law relating to intoxicating drink or drugs which are in force in any area in which he may happen to be for the time being and he shall not appear in public place under the influence of any drink or drug."*

22. Rule 14 of the Rules of 1958 is also material for consideration of the case, which is quoted as under:-

> *"**14. Nature of Penalties.-** The following penalties may, for good and sufficient reasons, which shall be recorded, and as hereinafter provided, be imposed on a Government servant, namely:-*
>
> *(i) censure;*
>
> *(ii) withholding of increments or promotion;*
>
> *(iii) recovery from pay of the whole or part of any pecuniary loss caused to the Government by negligence or breach of any law, rule or order;*
>
> *(iv) reduction to a lower service, grade or post, or to a lower time scale or to a lower stage in the time scale or in the case of pension to an amount lower than that due under the rules;*
>
> *(v) compulsory retirement on proportionate pension;*
>
> *(vi) removal from service which shall ordinarily not be a disqualification for further employment;*
>
> *(vii) dismissal from service which shall ordinarily be a disqualification for further employment.*
>
> ***Explanation:-***
>
> *(1) The following shall not amount to a penalty within the meaning of the rule:-*
>
> *(i) withholding of increments of a Government servant for failure to pass a departmental examination in accordance with the rules or orders governing the Service or post or the terms of his appointment;*
>
> *(ii) stoppage of Government servant at the efficiency bar in the time scale on the ground of hid unfitness to cross the bar;*

(iii) non-promotion whether in a substantive or officiating capacity of Government servant, after consideration of his case, to a Service, Grade or post for promotion to which he is eligible;

(iv) reversion to a lower service, grade or post of a Government servant officiating in a higher service grade or post on the ground that he is considered after trial, to be unsuitable for such higher Service, grade or post or on administrative grounds unconnected with his conduct;

(v) reversion to his permanent service, grade or post of a Government servant appointed on probation to another service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing probation;

(vi) compulsory retirement of Government servant in accordance with the provisions relating to his superannuation or retirement;

(vii) termination of the services-

(a) of a Government servant appointed on probation during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing probation; or

(b) of a temporary Government servant appointed otherwise then under contract on the expiration of the period of appointment;

(c) of a Government servant under an agreement, in accordance with the terms of such agreement;

(d) of a Government servant in the services of any of the integrating units of Rajasthan, on non-

selection or non-absorption for appointment in any of the services of the integrated State of Rajasthan in accordance with the integration rules.

Explanation:-

(2) The discharge of a person appointed on an ad-hoc or provisional basis to any of the posts in the integrated setup of Rajasthan Services otherwise than for reasons of non-selection or non-absorption to any such services or posts in accordance with the integrated rules, shall amount to removal or dismissal as the case may be.

Note-*The disqualification for further employment on account of dismissal under Rule 14 (vii) can only be waived by the Government if the merits of an individual case so justify."*

23. The beginning lines of Rule 14 of the Rules of 1958 speak that the penalties could be imposed on a government servant for good and sufficient reasons which shall be recorded. Meaning-thereby, the Disciplinary Authority is under an obligation to record the reasons which are good and sufficient for imposing the penalty.

24. On consideration of the law cited and referred to above and the relevant rules, this Court fully agrees with the submissions made by the counsel appearing for the petitioner. The Disciplinary Authority or the Appellate Authority or the Reviewing Authority is under an obligation to pass a reasoned and speaking order giving out good and

sufficient reasons for imposing the penalty because it is a mandate of Rule 14 of the Rules of 1958 which governs the disciplinary proceedings. Since this Court has already observed that the order of the Disciplinary Authority, the Appellate Authority and the Reviewing Authority is lacking good and sufficient reasons for recording the findings of guilty imposing the penalty upon the petitioner. Merely saying that the authority passing the order has made due application of mind in the facts and circumstances of this case, is not sufficient when the Officer of the Department in his comments has already observed that the punishment order deserves to be set aside giving out the specific reasons, is not sufficient. The authorities are under an obligation to specify the reasons for not accepting the explanation or the favourable comments made by the Authority of the Department. Passing any order relying upon a report which has never been disclosed to the petitioner so that he may, if requires, counter the same, is also violative of principles of natural justice.

The principles of natural justice demands that before passing any adverse order against a government servant, he must know what is being relied upon against him so that he may have full opportunity to counter the same. The Appellate Authority after having personal hearing of the petitioner has called a report from the Director General of

Police and in response to that the Dy. Inspector General of Police (Vigilance), sent a report and both the things i.e. calling of report and submitting of the report were never disclosed to the petitioner and relying upon the said report for dismissing the appeal is also a gross violation of principles of natural justice.

25. In view of the discussion made above, this Court can safely held that the impugned orders passed by the Disciplinary Authority, Appellate Authority and the Reviewing Authority are non-speaking, unreasoned, illegal, arbitrary and violative of principles of natural justice and therefore, the same deserve to be quashed and set aside.

26. Accordingly, the writ petition filed by the petitioner is allowed. The impugned orders dated 23.07.2008 (Annex.3), 08.01.2013 (Annex.6) and 19/20.07.2016 (Annex.8) are quashed and set aside.

27. Consequences to follow.

28. In view of the order passed in the main petition, the stay application and pending application/s, if any, also stand disposed of.

(GANESH RAM MEENA),J

Sharma N.K./Dy. Registrar/251-S