HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 12187/2014

Rajesh Kumar Tiwari S/o Shri U.C. Tiwari, aged 49 years, R/o 60, Alkapuri, Alwar (Raj.)

----Petitioner

Versus

1. The Jaipur Vidyut Vitran Nigam Limited, through its Secretary (Administration), Vidyut Bhawan, Jaipur.
2. The Chairman, Jaipur Vidyut Vitran Nigam Limited, Vidyut Bhawan, Jaipur.
3. The Managing Director, Jaipur Vidyut Vitran Nigam Limited, Vidyut Bhawan, Jaipur.

----Respondents

For Petitioner(s) : Dr. Saugath Roy, Adv.
For Respondent(s) : Mr. Sandeep Singh Shekhawat, Adv.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

Reportable

09/01/2026

1. By way of filing this writ petition, the petitioner has challenged penalty order dated 03.01.2013 issued by the Secretary (Administration), whereby penalty of withholding one grade increment without cumulative effect has been imposed upon the petitioner. He has also assailed the order dated 25.07.2014, whereby appeal filed by the petitioner against the penalty order has also been rejected.

2. Briefly stated facts of the case are that the petitioner was initially appointed on the post of Junior Engineer (Grade-I) in erstwhile Rajasthan State Electricity Board and was further promoted on the post of Assistant Engineer on 02.05.1998. On

disbundling of erstwhile RSEB, the petitioner was transferred to respondent-Jaipur Vidyut Vitran Nigam Limited (JVVNL).

3. One memorandum/charge-sheet was issued to the petitioner on 01.03.2012 leveling allegations of committing irregularities as well as making an attempt to cause heavy financial loss to the respondent-Corporation. As per the memorandum/charge-sheet dated 01.03.2012, although the old/unutilized/scrap G.I. wire was to be auctioned, yet instead thereof new wires weighing 1465 Kg were loaded in a truck for the purpose of taking away in the garb of scrap wire and thus, it was an effort to inflict financial harm to the Corporation which has happened on account of dereliction of duties by the petitioner and since, this incident was also published in daily newspaper Rajasthan Patrika, therefore, reputation of respondent-Nigam has also been lowered down. The aforesaid memorandum was issued under Regulation No.6 of Jaipur Discom Employees (CCA) Regulations, 1962, which was meant for initiating proceedings for imposing minor penalty.

4. Reply of memorandum/charge-sheet was filed on behalf of the petitioner, in which he categorically denied the charges and it was mentioned in the reply that although, as main store in-charge, directions were given by the petitioner to the store clerks/helpers for loading the scrap, however, without there being any knowledge of the petitioner, at their own new wires were loaded in the truck. It was submitted that in case, any irregularities have been committed by the store keeper/clerk/ward keeper, then, that has been done behind the back of the petitioner who was not there at the time of loading of the truck. It was

further stated that the petitioner is physically disabled person and faces difficulty in standing at a place for a longer time. Since, loading of the truck of the said wires were to take time and it was done in late evening in December during darkness, the petitioner was not there for physically verifying the bundles of wires. It was also mentioned that as soon as he came to know with regard to irregularities, he himself took action for stopping such irregularity and the new bundles of wires were placed at proper place. By mentioning such facts, he prayed for dropping the disciplinary enquiry and to exonerate him.

5. Thereafter, penalty order dated 03.01.2013 was passed by the Secretary (Administration), whereby the penalty of stoppage of one annual grade increment without cumulative effect was imposed upon the petitioner. Penalty order dated 03.01.2013 is hereby reproduced:-

> "A charge sheet under Regulation 6 of the Employees (CC&A) Regulations 1962 was served upon Shri Rajesh Kumar Tiwari, AEN vide memorandum No.JPD/Admn./Eng./FC-1871/D.606 dated 01.03.2012. He was alleged that while working as ACOS(O&M), Jaipur Discom, Alwar, he failed to discharge his duties in right manner and has been alleged for unauthorise delivery of new G.I. wire bundles weighing 1465 Kg. Of scrap materila to M/s Lalaram Mohalla Khadana, Alwar, auctioned in Circle Stores, Alwar on 22.12.2011 (Night) as indicated in detail in the statement of allegations served upon him. He furnished his reply, explained his position and denied the allegations. He was given an opportunity of personal hearing by the Disciplinary Authority-CMD on 26.12.2012.
>
> After careful consideration of the relevant records, reply and fact verification report, comments of S.E. (O&M), Alwar, and personal submission made by Shri R.K.Tiwari, AEN, Disciplinary Authority-CMD has ordered to impose the penalty of stoppage of one AGI without cumulative effect upon him.

> Accordingly, the penalty of stoppage of one Annual Grade Increment without cumulative effect in case No.FC 1871 is, hereby imposed upon Shri. R. K. Tiwari, AEN.
>
> He can file appeal against the above penalty order within 30 days through his controlling officer, if he wishes so.
>
> By order,
>
> (Narendra Singh)
> Secretary (Admn.)"

6. Thereafter, the petitioner filed departmental appeal and pointed out that the defence put forward in reply to the memorandum/charge-sheet has not at all been considered and the disciplinary authority has not properly examined the record, whereas the petitioner himself was a member of fact finding committee, which found that irregularities have been committed by the other persons and the petitioner was not at all present at the time. Issue of non consideration of the contents of the reply and the relevant material was emphasised in memo of appeal.

7. The appeal filed by the petitioner was rejected by the Appellate Authority vide order dated 25.07.2014. The appellate order dated 25.07.2014 is reproduced as under:-

> "A penalty of stoppage of one Annual Grade Increment without cumulative effect was imposed upon Shri Rajesh Kumar Tiwari, AEN by the Disciplinary Authority- then CMD vide order No.JPD/Admn./Eng./FC-1871/D.73 dated 03.01.2013 in case No.FC-1871. Being aggrieved, he filed an appeal before the Appellate Authority- Board of Directors.
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> As per authorisation given by the Board of Directors in its 226th meeting held on 07.05.2014, the appeal of Shri Rajesh Kumar Tiwari, AEN was heard by the Chairman, Discoms & the Director (Fin.), Jaipur on 19.07.2014.
>
> After careful consideration of the relevant records, oral submission made by Shri Rajesh Kumar Tiwari, AEN during hearing, the Appellate Authority found no substance in the appeal and the grounds given by him and decided to reject his appeal.

Accordingly, the appeal filed by Shri Rajesh Kumar Tiwari, AEN against the penalty order of stoppage of one Annual Grade Increment without cumulative effect imposed upon him vided above order No.73 dated 03.01.2013 is, hereby rejected.
By order

(B.L. Goyal)
Secretary (Admn.)"

8. Learned counsel for the petitioner submits that in the cases, where disciplinary proceedings were initiated for imposing minor penalty, only and minimum right provided to the delinquent is to file reply to the charge-sheet. Thus, the disciplinary authority was under an obligation to consider the contents of reply and defence put forward by the delinquent in objective manner as well as to consider the fact finding report and other relevant material. In the instant case, bare perusal of order dated 03.01.2013 passed by the Disciplinary Authority would make it clear that ignoring the contents of reply in defence of the petitioner as well as without analysing the fact verification report and other material, in quite abrupt manner, the disciplinary authority came to the conclusion that the petitioner was guilty of the charges and penalty has been imposed upon the petitioner.

9. Learned counsel for the petitioner further submits that such order was further challenged by him by way of filing appeal and legitimate grounds were raised with regard to non consideration of contents of reply, fact verification report and other relevant material as well as the fact that the petitioner was not available on the site at the time of alleged irregularity, yet even the appellate authority has dismissed the appeal filed by the petitioner, in quite mechanical manner vide order dated 25.07.2014.

10. Thus, learned counsel for the petitioner submits that his defence has not been tested and examined either by the disciplinary authority or by the appellate authority. He submits that although, the disciplinary authority has got power to punish in order to enforce discipline, yet such power is neither unbridled nor unfettered. The disciplinary authority as well as appellate authority are required to apply there judicious mind and not to impose penalty in a routine and casual manner without considering the defence, contents of reply and other material. Hence, he prayed for quashing the penalty as well as appellate order.

11. *Per contra*, learned counsel for the respondents submits that it is a case where there were charges of serious misconduct against the petitioner revealing an attempt to cause heavy financial loss to the respondent-Corporation by making grave irregularities.

12. Learned counsel for the respondents further submits that the ground of non consideration raised by the petitioner is totally misconceived. Whereas, bare perusal of penalty order dated 03.01.2013 clearly makes a recital that after careful consideration of the relevant record, reply and fact verification report, comments of S.E. (O&M), Alwar the Disciplinary Authority has ordered to impose the penalty of stoppage of one annual grade increment without cumulative effect upon him. Thus, there is clear cut reference of consideration of reply and fact verification report along with other record, hence, it cannot be said that the reply and defence of the petitioner as well as other relevant material has not been considered by the disciplinary authority.

13. Learned counsel for the respondents further submits that even the appellate authority has not committed any mistake in dismissing the appeal filed by the petitioner which was totally unfounded and based upon irrelevant and rational grounds. He submits that while appellate authority concurs with the view taken by the disciplinary authority, he is not required to give any reasoning, more particularly when the misconduct alleged is of serious nature. He submits that even otherwise, the reasons for passing penalty order and appellate order are very much there on the file of the Corporation, therefore, the allegation of non consideration is totally misplaced and the orders impugned cannot be quashed simply on such grounds. He prayed for dismissing the writ petition.

14. Learned counsel for the respondents, in support of his arguments, has relied upon the judgment of Hon'ble Supreme Court in the case of **State of U.P. & Anr. Vs. Man Mohan Nath Sinha & Anr. in Civil Appeal No.5549/2009 (Arising out of SLP(C) No.1848/2009) decided on 17.08.2009** and judgments of this Court in the cases of **Inder Singh Rathore Vs. State of Rajasthan & Ors. in S.B. Civil Writ Petition No.669/2003 decided on 23.01.2017**, **Inder Singh Rathore Vs. State of Rajasthan & Ors. in D.B. Special Appeal Writ No.329/2017 decided on 24.04.2017** and **Jai Singh Nirwan Vs. State of Rajasthan & Anr. in S.B. Civil Writ Petition No.4821/2002 decided on 15.09.2025**.

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

16. Bare perusal of penalty order reveals that the disciplinary authority has given a reference with regard to incident in brief in first sub para of the order and in second sub para, he has mentioned that the relevant record, reply and fact verification report etc. were considered carefully by the disciplinary authority. Similar recital is there in the appellate order, wherein it has been mentioned that the relevant record and oral submissions made during hearing have been considered by the appellate authority.

17. Now, the question arises whether mere using the word considered in the disciplinary order as well as in the appellate order can be treated as valid and objective consideration in the eye of law. In the case of **Chairman Life Insurance Corporation of India & Ors. Vs. A. Masilamani** reported in **(2013) 6 SCC 530**, the Hon'ble Supreme Court has laid down that word 'consider' means active application of mind as well as thinking over, pondering and weighing the relevant material. Para 19 of the above judgment is relevant and is quoted here under:-

> "**19.** The word "consider" is of great significance. The dictionary meaning of the same is, "to think over", "to regard as", or "deem to be". Hence, there is a clear connotation to the effect that there must be active application of mind. In other words, the term "consider" postulates consideration of all relevant aspects of a matter. Thus, formation of opinion by the statutory authority should reflect intense application of mind with reference to the material available on record. The order of the authority itself should reveal such application of mind. The appellate authority cannot simply adopt the language employed by the disciplinary authority and proceed to affirm its order. (Vide *Indian Oil Corpn. Ltd.* v. *Santosh Kumar*[15] and *Bhikhubhai Vithlabhai Patel* v. *State of Gujarat*[16].)"

18. Similarly, in the case of **Bhikhubhai Vithlabhai Patel & Ors. Vs. State of Gujarat & Anr.** reported in **(2008) 4 SCC**

144, the term considered has been defined as consideration of all relevant aspect of the matter. Para 25 of the aforesaid judgment is quoted here under:-

> "**25.** The formation of the opinion by the State Government is with reference to the necessity that may have had arisen to make substantial modifications in the draft development plan. The expression: "as considered necessary" is again of crucial importance. The term "consider" means to think over; it connotes that there should be active application of the mind. In other words the term "consider" postulates consideration of all the relevant aspects of the matter. A plain reading of the relevant provision suggests that the State Government may publish the modifications only after consideration that such modifications have become necessary. The word "necessary" means indispensable, requisite, indispensably requisite, useful, incidental or conducive, essential, unavoidable, impossible to be otherwise, not to be avoided, inevitable. The word "necessary" must be construed in the connection in which it is used. (See *Advanced Law Lexicon*, P. Ramanatha Aiyar, 3rd Edn., 2005.)"

19. In the case of **Ram Chander Vs. Union of India & Ors.** reported in **(1996) 3 SCC 103**, the Hon'ble Supreme Court has laid down that consideration means objective consideration after due application of mind which employees the giving of the reasons for its decision. Para 9 of the aforesaid judgment is relevant and is reproduced here under:-

> "**9.** These authorities proceed upon the principle that in the absence of a requirement in the statute or the rules, there is no duty cast on an appellate authority to give reasons where the order is one of affirmance. Here, Rule 22(2) of the Railway Servants Rules in express terms requires the Railway Board to record its findings on the three aspects stated therein. Similar are the requirements under Rule 27(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. Rule 22(2) provides that in the case of an appeal against an order imposing any of the penalties specified in Rule 6 or enhancing any penalty imposed under the said rule, the appellate

> authority shall "consider" as to the matters indicated therein. The word "consider" has different shades of meaning and must in Rule 22(2), in the context in which it appears, mean an objective consideration by the Railway Board after due application of mind which implies the giving of reasons for its decision."

20. While the order dated 03.01.2013 passed by the Disciplinary Authority and appellate order dated 25.07.2014 are examined at the touch stone of the aforesaid judgment for the purpose of assessing, whether there was consideration on the part of disciplinary authority or not, it becomes clear that neither the contents of reply have been referred nor the relevant record including facts verification report has been discussed, weighed and analysed either by the disciplinary authority or by the appellate authority, nor is there any reason assigned for arriving at the conclusion in the aforesaid orders. Hence, such alleged consideration cannot be said to be consideration in legal sense and mere using the words that the record, reply etc. has been considered is merely an empty formality and eye wash on the part of disciplinary authority and appellate authority.

21. Constitution Bench of Hon'ble Supreme Court in the case of **S. N. Mukherjee Vs. Union of India** reported in **(1990) 4 SCC 594** has laid down that the authority exercising the powers must record reasons for its decision and even the necessity to record reasons has been brought within the four corners of compliance of principle of natural justice. Para 36, 40 and 41 of the aforesaid judgment are referred here under:-

> "**36.** Reasons, when recorded by an administrative authority in an order passed by it while exercising quasi-judicial functions, would no doubt facilitate the exercise of its jurisdiction by the appellate or supervisory authority. But the other considerations, referred to above, which have also weighed with

this Court in holding that an administrative authority must record reasons for its decision, are of no less significance. These considerations show that the recording of reasons by an administrative authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures a degree of fairness in the process of decision-making. The said purpose would apply equally to all decisions and its application cannot be confined to decisions which are subject to appeal, revision or judicial review. In our opinion, therefore, the requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the decision of a court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage. 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.

40. 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.

41. 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 sentence 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 martial; and (*iii*) consideration of post-confirmation petition."

22. In the light of aforesaid guidelines given by the Hon'ble Supreme Court, when this Court examined the order of the disciplinary authority dated 03.01.2013 and appellate order dated 25.07.2014, it becomes clear that no reason whatsoever has been assigned either by the disciplinary authority or by the appellate authority for arriving at a particular decision. Hence, clearly impugned orders have been passed without due application of mind and without recording any reason.

23. Contentions of learned counsel for the respondents that reasons may not be reflecting in so many words in the impugned order, yet they are clearly mentioned in the note-sheets of the files lying in the office of respondent-Corporation, are totally unsustainable and unfounded. Penalty order and the appellate order causes serious prejudice and miscarriage of justice to the delinquent employee as it also reflects in the service record and also causes adverse impact on his future promotions/benefits etc. Therefore, the reasons for holding the delinquent guilty as well as to arrive at a particular conclusion for imposing penalty, are bound to be part of the disciplinary order as well as the appellate order. It is also settled that while defending the impugned orders, the respondents are bound to refer the contents of impugned order and cannot be allowed to supplement the same by any other material, which was not supplied to the delinquent.

24. So far as judgments of **Man Mohan Nath Sinha (Supra), Inder Singh Rathore (Supra)** and **Jai Singh Nirwan (Supra)** there is no quarrel with the preposition of law laid down

in such judgments, yet such judgments have been delivered in altogether different facts and circumstances, hence, are not attracted in the set of facts of the present case.

25. It is settled that in cases, where a minor penalty is proposed and the Rules permit adoption of a summary procedure in place of a full-fledged departmental enquiry, the requirement of fairness, transparency and judicious decision making is not diluted. On the contrary, when the disciplinary authority does not follow the procedure of a detailed enquiry and confines the opportunity of hearing to submission of a written reply by the delinquent employee, the obligation to record clear and cogent reasons in the penalty order becomes more pronounced. The reply submitted by the delinquent constitutes the sole and substantive defence available to him, and therefore, it is incumbent upon the disciplinary authority to objectively consider each material contention raised therein and to reflect such consideration in the final order. A penalty order passed in a summary proceedings, if bereft of reasons or containing only a bald recital of conclusions, gives rise to a legitimate apprehension that the authority has acted mechanically or with a predetermined mind. Reasoned findings, even while imposing a minor penalty, serve as a safeguard against arbitrariness and demonstrate that the authority has weighed the explanation of the delinquent against the allegation levelled. Such reasoning also ensures compliance with the principles of natural justice, particularly the rule of *audi alteram partem*, which is not satisfied by mere issuance of charge-sheet but requires due and conscious consideration of the reply thereto. The absence of reasons in a minor penalty order, passed

after a summary procedure, thus vitiates the decision making process and renders the order vulnerable to the judicial scrutiny, as it fails to disclose a fair, transparent and rational basis for imposition of penalty.

26. It is settled principle of service jurisprudence that consideration of the defence put forth by a delinquent employee in disciplinary proceedings is neither an empty ritual, nor a mere formality to be completed for the sake of compliance with procedural requirements. The disciplinary authority is under a legal obligation to apply its independent and judicious mind to the entire material on record, including the specific points of defence raised by the delinquent. Such consideration must be reflected from the penalty order itself, by way of cogent reasons indicating as to why the explanation or defence has been accepted or rejected. Reasons are the soul of any administrative or even the quasi judicial order, as they ensure transparency, fairness and accountability in decision making and also enable the affected employee as well as the court scrutinizing such order to understand the basis of conclusion arrived at. An order which merely records the conclusion of guilt and proceeds to impose penalty, without analyzing the defence or dealing with the contentions raised by the delinquent, is inherently vague and cryptic and reflects non-application of mind. The gravity or seriousness of the charges cannot be invoked as a justification to dispense with the requirement of recording reasons. Even in the cases involving serious misconduct, the disciplinary authority is duty bound to demonstrate, through reasoned findings, how the charges stand proved despite the defence raised.

27. The approach of Appellate Authority is equally unsustainable, which is expected to act as a forum of meaningful review and correction, but quite surprisingly, in the present case Appellate Authority has disposed of the Statutory Appeal in a mechanical manner, merely affirming the penalty order without independent consideration of the grounds urged or the legality and proportionality of the punishment imposed. Such a mechanical exercise defeats the very purpose of providing a departmental appeal and renders the appellate order vulnerable on the ground of arbitrariness.

28. In the absence of reasoned consideration at both disciplinary as well as appellate stages, the impugned penalty order dated 03.01.2013 along with the appellate order dated 25.07.2014 cannot be sustained in law and, therefore, writ petition filed by the petitioner is allowed. The penalty order dated 03.01.2013 and the appellate order dated 25.07.2014 are hereby quashed and set aside. Petitioner shall also be entitled for the consequential relief, which shall be sanctioned and released to the petitioner within a period of 60 days from the date of receipt of certified copy of this judgment.

29. Pending application(s), if any, stand(s) disposed of.

(ANAND SHARMA),J

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