



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Civil Writ Petition No. 11692/2025
CNR: RJHC010537942025 | URN: CW / 20821U / 2025

Fateh Rai Soni S/o Sh. Ishwar Chand Soni, Aged About 67 Years,
R/o 74, Marudhra Nagar, Opposite Mahila Thana, Bikaner, Tehsil
And District Bikaner (Raj.).

-----Petitioner

Versus

1. The State Of Rajasthan, Through The Secretary,
Department Of Personnel, Secretariat, Jaipur (Raj.).
2. Deputy Secretary, Department Of Personnel (Group Ka-3)
(Enquiry), Government Of Rajasthan, Secretariat, Jaipur
(Raj.).
3. Director, Pension And Pensioners Welfare Department,
Jyoti Nagar, Jaipur (Raj.).

-----Respondents

For Petitioner(s)	:	Mr. Narpat Singh Charan (Arha) with Mr. Om Singh Chauhan
For Respondent(s)	:	Mr. Nitesh Mathur, AGC with Mr. Ravi Shanker

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

Reportable

05/08/2026

1. The matter comes up on an application (01/26) filed by the
respondents for vacation of interim stay granted by this Court vide
order dated 12.06.2025.
2. With the consent of the parties, the matter is taken for final
hearing today itself.
3. By way of the present writ petition, the petitioner has
assailed the order dated 30.04.2025 (Annx.16) passed by
respondent No.2, whereby the penalty of permanent withholding
of 100% pension has been imposed upon him.



4. The facts, as pleaded in the writ petition, are that the petitioner was appointed to the Junior Scale under the Rajasthan Administrative Service (RAS) in the year 1984. He was promoted to the Senior Scale in 1993 and thereafter to the Selection Scale in 2000. Upon attaining the age of superannuation, he retired from service on 30.08.2017 while serving as Settlement Officer, Bikaner.

4.1 On the very date of his retirement, the petitioner was served with a charge-sheet under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short 'Rules of 1958' hereinafter). The allegation against him was that, while posted as Deputy Director, I.C.D.S., Churu and functioning as Officer-in-Charge during the *Prashasan Gaon Ke Sang Abhiyan* in the year 2001, he had wrongly decreed a suit under Section 88 of the Rajasthan Tenancy Act, 1955 (for short 'Act of 1955' hereinafter) in favour of one Bishna Ram vide judgment dated 10.01.2002. The charge was confined to an alleged erroneous exercise of jurisdiction. Significantly, there was no allegation whatsoever of corruption, *mala fides*, dishonesty, illegal gratification, personal gain or any other misconduct.

4.2 According to the petitioner, the impugned decree was passed in discharge of his quasi-judicial functions pursuant to the powers conferred upon him by the Government Notifications dated 23.10.2001 and 20.12.2001. The decree was rendered after considering the pleadings, the relevant revenue records and the written statement submitted by the concerned Tehsildar, who had admitted the plaintiff's possession and raised no objection to the



relief sought. Admittedly, neither an appeal nor a revision was preferred against the said decree under the Rajasthan Tenancy Act.

4.3 It is further pleaded that despite repeated representations made between the years 2017 and 2022, including applications submitted under the Right to Information Act, the respondents failed to supply essential documents required for preparing his defence, thereby compelling him to submit his reply without access to the complete record.

4.4 During the departmental enquiry, only one out of the four listed prosecution witnesses, namely, Shri Omprakash Verma was examined. The then Tehsildar, namely, Shri J.P. Tak, whose written statement formed the basis of the decree and who was the principal witness, was neither summoned nor examined despite the petitioner's specific request. The petitioner's own statement was also not recorded. Nevertheless, the Inquiry Officer submitted his report dated 31.05.2024 (Annx.12) holding the charge proved. Although, the petitioner submitted a detailed representation dated 05.08.2024 (Annx.14) challenging the findings recorded therein, the same was not duly considered.

4.5 Thereafter, by the impugned order dated 30.04.2025 (Annx.16), communicated to the petitioner vide communication dated 08.05.2025 (Annx.15) on 17.05.2025, the disciplinary authority imposed the extreme penalty of permanent withholding of the petitioner's entire pension. The petitioner contends that the punishment has been imposed nearly eight years after his retirement and more than twenty-three years after the alleged



incident. It is asserted that the impugned order is arbitrary, grossly disproportionate, violative of the principles of natural justice and wholly unsustainable in law, particularly when the alleged act was nothing but a quasi-judicial decision rendered under statutory authority without any allegation of misconduct or corruption. Hence, the petitioner has approached this Court seeking quashing of the impugned order along with appropriate consequential reliefs.

5. The respondents have filed a detailed reply opposing the writ petition. At the outset, it is contended that the writ petition is not maintainable under Article 226 of the Constitution of India, as the impugned order has been passed pursuant to a duly conducted departmental enquiry initiated under the Rules of 1958 and concluded in accordance with Rule 7 of the Rajasthan Civil Services (Pension) Rules, 1996 (for short 'Rules of 1996' hereinafter). It is submitted that since the disciplinary proceedings were initiated during the petitioner's tenure in service, they were lawfully continued after his retirement in terms of the statutory provisions contained in Rule 7(2)(a) of the Rules of 1996.

5.1 The respondents further submit that the petitioner was afforded adequate opportunity at every stage of the enquiry. He was served with the charge-sheet, permitted to file his written statement, participated in the enquiry proceedings, furnished with the enquiry report and allowed to submit his representation. The disciplinary authority, after considering the enquiry report, the petitioner's representation, the advice of the Rajasthan Public



Service Commission and the approval of the His Excellency the Governor passed the impugned order.

5.2 It is specifically alleged that while functioning as Officer-in-Charge during the *Prashasan Gaon Ke Sang Abhiyan*, 2001, the petitioner exceeded the jurisdiction vested in him by granting khatedari rights in respect of land recorded as *Gochar* (pasture land), in the teeth of the prohibition contained in Section 16(1) of the Act of 1955. According to the respondents, the misconduct attributed to the petitioner is not merely an erroneous judicial decision but an act of gross negligence involving the exercise of jurisdiction not vested in him.

5.3 The respondents deny all allegations of violation of the principles of natural justice and contend that the enquiry was conducted strictly in accordance with law. It is further submitted that the petitioner is, in substance, seeking re-appreciation of evidence and reconsideration of findings of fact recorded in the departmental proceedings, which is beyond the permissible scope of judicial review under Article 226 of the Constitution. Accordingly, dismissal of the writ petition has been prayed for.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioner submits that impugned order dated 30.04.2025 is arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India. It is contended that the disciplinary authority has failed to consider the petitioner's explanation, the evidence adduced during the enquiry and the material available on record, thereby rendering the impugned order an arbitrary exercise of power.



7.1 It is submitted that the disciplinary proceedings arise solely out of a quasi-judicial order dated 10.01.2002 passed by the petitioner in exercise of powers under Section 88 of the Act of 1955. Since the said order was appealable and revisable under the statute, and admittedly no appeal or revision was preferred by the State, the petitioner could not have been subjected to disciplinary proceedings merely because the respondents subsequently formed a different legal opinion. It is emphasised that there is not even a whisper of any allegation of *mala fides*, corruption, dishonesty, favouritism or illegal gratification.

7.2 Learned counsel further submits that penalty of permanent withholding of the petitioner's entire pension is wholly disproportionate to the charge levelled against him. Even assuming the findings recorded in the enquiry to be correct, the punishment imposed is excessively harsh and shocks the judicial conscience. It is contended that such punishment is inconsistent with the scheme of the Rules of 1958, Rules of 1996 and the Rajasthan Service Rules, 1951.

7.3 It is further argued that the petitioner has been singled out for hostile discrimination. The decree dated 10.01.2002 was passed after considering the pleadings, revenue records, the Patwari's report, the recommendations of the Allotment and Regularisation Committee and the no-objection filed by the concerned Tehsildar. Yet, no action has been taken against any other officer connected with the proceedings, including the then Sub-Divisional Officer, Tehsildar, Naib Tehsildar or Patwari. It is also submitted that deprivation of the petitioner's sole source of





livelihood at an advanced age violates his right to live with dignity under Article 21 of the Constitution.

7.4 Learned counsel further submits that both the enquiry report and the impugned order are non-speaking. The detailed representation submitted by the petitioner against the enquiry report has not been dealt with, nor have the specific explanations furnished by him been considered. The impugned order, therefore, suffers from complete non-application of mind.

7.5 It is further contended that enquiry stands vitiated for violation of the principles of natural justice. Despite repeated requests, including applications under the Right to Information Act, the petitioner was denied copies of essential documents, including the original suit record and the written statement filed by the Tehsildar, thereby causing serious prejudice to his defence.

7.6 It is also urged that the charge-sheet is vitiated by gross and unexplained delay, having been issued nearly fifteen years after the quasi-judicial order dated 10.01.2002 and on the very date of the petitioner's retirement.

7.7 Learned counsel further submits that the enquiry itself was conducted in an unfair manner. Only one departmental witness, who was not posted in the Tehsildar's office during the relevant period, was examined. The then Tehsildar, who was the most material witness, was neither examined nor produced for cross-examination despite repeated requests. The petitioner's own statement was also not recorded.

7.8 It is reiterated that the petitioner was duly empowered under the Government Notifications dated 23.10.2001 and 20.12.2001





to exercise the powers of the Sub-Divisional Officer/Assistant Collector during the special campaign. Consequently, the decree dated 10.01.2002 was passed strictly in discharge of his quasi-judicial functions, and no misconduct can be attributed merely because the respondents subsequently formed a different interpretation of law.

7.9 Lastly, it is contended that impugned order is contrary to Article 311 of the Constitution, the applicable service and pension rules, the settled principles of natural justice and the law laid down by the Hon'ble Supreme Court and this Court governing disciplinary proceedings against officers discharging judicial or quasi-judicial functions.

7.10 In support of his contentions, learned counsel for the petitioner has relied upon the decisions of Hon'ble Supreme Court in **Ramesh Chander Singh vs. High Court of Allahabad and Another** reported in **(2007) 4 Supreme Court Cases 247** and the Division Bench of this Court in **State of Rajasthan vs. Jagmal Singh** reported in **2017(3) WLC (Raj.) 721**.

8. *Per contra*, learned counsel for the respondents while supporting the order impugned, submits that impugned order dated 30.04.2025 (Annx.16) has been passed strictly in accordance with law after following the procedure prescribed under Rule 16 of the Rules of 1958 and Rule 7 of the Rules of 1996. It is contended that before passing the impugned order, the advice of the Rajasthan Public Service Commission was duly obtained and the approval of the His Excellency the Governor was also secured. Reliance has been placed on Rule 7 of the Rules of



1996 to contend that His Excellency the Governor is empowered to withhold or withdraw pension, permanently or for a specified period, where a pensioner is found guilty of grave misconduct or negligence in departmental or quasi-judicial proceedings. It is, therefore, submitted that the penalty imposed is fully within the statutory framework.

8.1 Learned counsel further submitted that the petitioner was afforded adequate opportunity at every stage of the disciplinary proceedings. According to the respondents, the allegation that his statement was not recorded does not vitiate the enquiry particularly when the petitioner was served with the charge-sheet, permitted to file his written statement, participated in the enquiry proceedings, produced documents, submitted written arguments and was also furnished with the enquiry report, against which he submitted his representation. It is, therefore, contended that there has been no violation of the principles of natural justice.

8.2 It is contended that the gravamen of the charge against the petitioner is not merely that he passed an erroneous quasi judicial order, but that while functioning as Officer-in-Charge during the *Prashasan Gaon Ke Sang Abhiyan*, he exercised jurisdiction not vested in him and granted khatedari rights over land recorded as *Gochar* (pasture land), despite the statutory prohibition contained in Section 16(1) of the Act of 1955. Such conduct, according to the respondents, constitutes grave negligence and misconduct in discharge of official duties.

8.3 Learned counsel further submitted that the absence of allegations relating to *mala fides*, corruption, illegal gratification or



personal gain does not absolve the petitioner of misconduct. It is argued that under the service jurisprudence, grave negligence or violation of statutory provisions is itself sufficient to attract disciplinary action. Likewise, the fact that no appeal or revision was preferred against the order dated 10.01.2002 does not validate an otherwise illegal exercise of jurisdiction nor does it preclude the State from initiating departmental proceedings.

8.4 Refuting the allegation of denial of reasonable opportunity, learned counsel submitted that the petitioner was permitted to inspect the relevant record and had, in fact, submitted a detailed reply to the charge-sheet as well as to the enquiry report. It is, therefore, argued that no prejudice has been caused to the petitioner on account of the alleged non-supply of documents.

8.5 It is further contended that the plea of inordinate delay is misconceived. The disciplinary proceedings were admittedly initiated while the petitioner was in service and were thereafter continued in accordance with Rule 7 of the Rules of 1996. Mere lapse of time, in the absence of demonstrated prejudice, does not vitiate the proceedings.

8.6 Learned counsel further submitted that the challenge raised by the petitioner essentially seeks re-appreciation of evidence and reconsideration of the findings recorded by the Inquiry Officer and accepted by the disciplinary authority. Such an exercise, according to the respondents, falls outside the scope of judicial review under Article 226 of the Constitution of India. Unless the findings are shown to be perverse, based on no evidence or vitiated by procedural illegality, this Court ought not to interfere.



8.7 On the question of proportionality of punishment, it is submitted that the quantum of penalty lies primarily within the domain of the disciplinary authority. Judicial interference is warranted only where the punishment is shockingly disproportionate to the proved misconduct. Even in such cases, the Court ordinarily remits the matter to the disciplinary authority instead of substituting its own decision. Having regard to the nature of misconduct established against the petitioner, namely violation of statutory provisions and exercise of jurisdiction not vested in him, the penalty of permanent withholding of pension cannot be said to be arbitrary or disproportionate.

8.8 Learned counsel, therefore, prayed that the writ petition, being devoid of merit and seeking re-appreciation of findings recorded in a duly conducted departmental enquiry, deserves to be dismissed.

8.9 In support of his contentions, learned counsel for the respondents has relied upon the decisions of the Hon'ble Supreme Court in ***Additional Supdt. of Police vs. T. Natarajan*** reported in ***1998 Supreme (SC) 1280***; ***The State of Uttar Pradesh and Others vs. Rajit Singh*** reported in ***2022 AIR (SC) 1551***; and ***S. Govinda Menon vs. Union of India and another*** reported in ***1967 AIR (SC) 1274***.

9. I have considered the rival submissions advanced at the Bar by learned counsel for the parties, perused the material available on record and examined the judgments cited.

10. A perusal of the record reveals that disciplinary proceedings against the petitioner emanate solely from the quasi judicial order



dated 10.01.2002 passed by him while exercising powers under Section 88 of the Act of 1955 as Officer-in-Charge during the *Prashasan Gaon Ke Sang Abhiyan, 2001*. Significantly, neither the charge-sheet nor the enquiry report nor the impugned order attributes to the petitioner any allegation of corruption, *mala fides*, dishonesty, favouritism, illegal gratification or any extraneous consideration. The gravamen of the charge is only that the petitioner wrongly exercised jurisdiction by granting khatedari rights over land recorded as *Gochar*.

11. A plain reading of the order dated 10.01.2002 demonstrates that it is a reasoned quasi judicial order. The petitioner considered the pleadings of the parties, the revenue record, the Patwari's report, the recommendations of the Regularisation Committee, the Gram Panchayat resolution and the written statement of the Tehsildar, who admittedly raised no objection to the relief claimed by the plaintiff. The order was thus rendered after appreciation of the material available before the petitioner while discharging statutory quasi judicial functions. The relevant extract of order dated 10.01.2002 is reproduced as under :-

“**80(2)** सीपीसी के की छूट के आवेदन पर उभयपक्ष को सुना गया एवं छूट प्रदान करते हुए वाद दर्ज किया गया। रिपोर्ट पटवारी की गई जिसके अनुसार वादी का वादग्रस्त रकबा पर कब्जा काश्त संवत् **2021** से चला आ रहा है। तथा वर्तमान ख **0 न 0 31** के पुराने ख **0 न 0 36** मुताबिक मिलान क्षेत्रफल के आराजी राज था जो नई पैमाईश के दौरान ख **0 न 0 31** गै०मुं० गोचर में अंकित हो गया। जिस पर वादी का कब्जा काश्त संवत् **2021** से चला आ रहा है।

जवाब तहसीलदार सुजानगढ के अनुसार वादी का कब्जा काश्त संवत् **2021** से होना स्वीकार किया है तथा वादी का वाद डिक्री किया जात है तो कोई आपत्ति नहीं होना व्यक्त किया है।

चूंकि प्रतिवादी को वाद डिक्री किए जाने में कोई आपत्ति नहीं है। अतः तनकियात कायम नहीं की गई। वादी द्वारा प्रस्तुत रेकॉर्ड का अवलोकन किया गया





जिसके अनुसार पुराना ख०न० 36 से नया ख०न० 31 तादादी 8 बीघा 5 बिस्वा का रोही गेवरसर बना हुआ है। संवत् 2010, 2011 व 2015 से 18 में उक्त भूमि आराजी राज दर्ज है न की चारागाह। संवत् 2021 से वादी का लगातार कमोबेश भूमि पर नाजायज काश्त दर्ज है। तावान भी जमा करवाया गया है। खसरा परिवर्तनशील, नियमन कमेटी दिनांक 16.10.75 की सिफारिश व ग्राम सभा की बैठक दिनांक 02.10.2001 के अनुसार ख०न० 31 (नया) तादादी 8 बीघा 5 बिस्वा में वादी बिशनाराम का लगातार कब्जा काश्त बताया गया है एवं गैर मुमकिन गोचर गलत दर्ज किया जाना बताया है। अतः वादी का एडवर्स पजेशन के आधार पर भी वादग्रस्त भूमि में खातेदारी अधिकार बनते हैं। वादग्रस्त भूमि को गैर मुमकिन गोचर गलत अंकित किया जाना प्रतीत होता है। तहसीलदार सुजानगढ को भी वाद डिक्री किए जाने में कोई आपत्ति नहीं है व पंचायत के प्रस्ताव के अनुसार भी गोचर गलत दर्ज किया जाना बताया है। अतः वादी का वाद डिक्री किए जाने योग्य प्रतीत होता है अतः वादी का वाद डिक्री किया जाकर घोषणा की जाती है कि ख०न० 31 तादादी 8 बीघा 5 बिस्वा गैर मुमकिन गोचर के स्थान पर वादी बिशनाराम पुत्र गोविन्दराम जाट नि० ग्राम गेवरसर को उक्त भूमि पर खातेदार घोषित किया जाता है। उक्त खसरा पृथक खाते में दर्ज किया जाकर रेकॉर्ड में आवश्यक दुरस्ती की जावे एवं भूमि की किस्म के अनुसार लगान कायम किया जाकर नियमानुसार देय रकम राज वसूल की जाकर रेकॉर्ड में दुरस्ती की जावे। डिक्री इसी आशय की जारी हो।"

12. If the respondents were of the opinion that the aforesaid order suffered from any legal or factual infirmity, the Act of 1955 provided adequate statutory remedies by way of appeal and revision. Admittedly, neither of the said remedies was availed of and the judgment dated 10.01.2002 attained finality. The disciplinary proceedings initiated against the petitioner, therefore, in substance seek to reopen and examine the correctness and legality of a quasi-judicial determination that had long since attained finality. Such a collateral scrutiny of a quasi-judicial order through disciplinary proceedings, in the absence of any allegation of *mala fides*, corruption or dishonest motive, is wholly impermissible in service jurisprudence.

13. The settled position of law is that an officer exercising judicial or quasi-judicial powers cannot be subjected to disciplinary proceedings merely because another authority forms a different legal opinion or considers the decision to be erroneous. Unless





there exists material to establish recklessness, *mala fide* exercise of power, corrupt motive or dishonest intention, an alleged erroneous quasi judicial order cannot constitute misconduct.

14. The Hon'ble Supreme Court in **Ramesh Chander Singh's case (supra)** has held as under :-

"11. We fail to understand as to how the High Court arrived at a decision to initiate disciplinary proceedings solely based on the complaint, the contents of which were not believed to be true by the High Court. If the High Court were to initiate disciplinary proceedings based on a judicial order, there should have been strong grounds to suspect officer's bona fides and the order itself should have been actuated by malice, bias or illegality. The appellant-officer was well within his right to grant bail to the accused in discharge of his judicial functions. Unlike provisions for granting bail in [TADA Act](#) or [NDPS Act](#), there was no statutory bar in granting bail to the accused in this case. A Sessions Judge was competent to grant bail and if any disciplinary proceedings are initiated against the officer for passing such an order, it would adversely affect the morale of subordinate judiciary and no officer would be able to exercise this power freely and independently.

12. This Court on several occasions has disapproved the practice of initiation of disciplinary proceedings against officers of the subordinate judiciary merely because the judgments/orders passed by them are wrong. The appellate and revisional courts have been established and given powers to set aside such orders. The higher courts after hearing the appeal may modify or set aside erroneous judgments of the lower courts. While taking disciplinary action based on judicial orders, High Court must take extra care and caution.

13. In [Iswar Chandra Jain v. High Court of P&H](#), this Court observed that while exercising control over subordinate judiciary under [Article 235](#) of the Constitution, the High Court is under a Constitutional obligation to guide and protect subordinate judicial officers. An honest and strict judicial officer is likely to have adversaries. If complaints are entertained in trifling matters and if the High Court encourages anonymous complaints, no judicial officer would feel secure and it would be difficult for him to discharge his duties in an honest and independent manner. It is imperative that the High Court should take steps to protect honest judicial officers by ignoring ill-conceived or motivated complaints made by unscrupulous lawyers and litigants.

14. In [K.P. Tiwari v. State of Madhya Pradesh](#), where the High Court reversed the order passed by the lower court making remarks about interestedness and motive of the lower court in passing the unmerited order, this Court observed that one of the functions of the higher court is either to modify or set aside erroneous orders passed by the lower courts. Our legal system acknowledges fallibility of judges. It has to be kept in mind that a subordinate judicial officer works mostly in a charged atmosphere. He is under a psychological pressure – contestants and lawyers breathing down his neck. He does





not enjoy the detached atmosphere of the higher court. Every error, however gross it may be, should not be attributed to improper motives. The Judges of the High Court have a responsibility to ensure judicial discipline and respect for the judiciary from all concerned. No greater damage can be done to the administration of justice and to the confidence of the people in the judiciary if the higher courts express lack of faith in the subordinate judiciary for some reason or other. That amounts to destruction of judiciary from within.

15. In *Kashi Nath Roy v. The State of Bihar*, this Court observed under a similar circumstance that in our system appellate and revisional courts have been set up with the presupposition that the lower courts in some measure of cases can go wrong in decision making in law and in fact. The higher courts have been established to correct errors. In cases where intolerable error is pointed out, it is functionally required to correct the error in an appropriate case and in a manner befitting maintaining dignity of the court and independence of the judiciary. The higher court should convey its message in the judgment to the officer concerned through a process of reasoning, essentially persuasive, reasonable, mellowed but clear and result oriented and rarely a rebuke.

16. In series of other cases also, this court disfavoured the practice of passing strictures or orders against the subordinate officers. (See : *Braj Kishore Thakur v. Union of India*; *Alok Kumar Roy v. Dr. S.N. Sarma*)

17. In *Lunjarrao Bhikaji Nagarkar v. Union of India*, this Court held that wrong exercise of jurisdiction by a quasi judicial authority or mistake of law or wrong interpretation of law cannot be the basis for initiating disciplinary proceeding. Of course, if the Judicial Officer conducted in a manner as would reflect on his reputation or integrity or good faith or there is a prima facie material to show recklessness or misconduct in discharge of his duties or he had acted in a manner to unduly favour a party or had passed an order actuated by corrupt motive, the High Court by virtue of its power under *Article 235* of the Constitution may exercise its supervisory jurisdiction. Nevertheless, under such circumstances it should be kept in mind that the Judges at all levels have to administer justice without fear or favour. Fearlessness and maintenance of judicial independence are very essential for an efficacious judicial system. Making adverse comments against subordinate judicial officers and subjecting them to severe disciplinary proceedings would ultimately harm the judicial system at the grassroot level.

18. Apart from the merits of the case before us, we have also gone into the Confidential Reports of the appellant officer. His integrity and honesty had never been doubted at any point of time. In some of the confidential reports except stating that the appellant-officer was not having smooth relationship with the advocates, no other adverse remarks had been entered. Two Senior Judges of the High Court have entered in his confidential register that the appellant is an officer of honesty and integrity. The fact that it was a case of daylight murder wherein two persons died, is not adequate to hold that the accused were not entitled to bail at all. Passing order on a bail application is a matter of discretion which is exercised by a Judicial Officer with utmost responsibility. When a co- accused had been granted bail by the High Court, the appellant cannot be said to have passed an unjustified order granting bail, that too, to an accused who was a





student and had been in jail for more than one year. If at all, the Inspecting Judge had found anything wrong with the Order, he should have sent for the officer and advised him to be careful in future. The punishment of reverting the appellant to the post of Civil Judge (Sr. Division), in the facts and circumstances of this case could only be termed as draconian and unjust. The appellant had been in the cadre of District Judge for eight years at the time this grave punishment of reversion to a lower rank was imposed on him. In our opinion, the punishment was clearly disproportionate to the lapse alleged to have been committed by him. The imposition of the punishment of withholding two increments with cumulative effect also appears to be disproportionate to the alleged lapse.

19. Consequently, we set aside the Judgment of the High Court dated 3.10.2005 and also the Judgment rendered by the very same court on 25.11.2005. The appellant shall be immediately posted to the cadre of District Judge and paid all monetary benefits due to him as a consequence thereof. We also set aside the initial order passed by the Full court of the High Court imposing the penalty of withholding two increments to the appellant with cumulative effect.

20. As the Full Court alone is the ultimate competent authority to consider all disciplinary matters and has indeed taken the decision impugned before us, we remit the matter to the Full Court to consider afresh the question of imposition of appropriate punishment on the appellant.

21. The appeal is disposed of accordingly.”

The Division Bench of this Court in **Jagmal Singh's case**

(**supra**) observed as under :-

“11. The fundamental principle while dealing such issues is the foundation and the mens-rea, if a wrong order has been passed without there being any ulterior motive then certainly an officer cannot be punished and there is no question of proceeding against authority or officer in the circumstances. If that be so then every wrong order passed by an officer will be proceeded with by the disciplinary action.

12. In nutshell to conduct disciplinary enquiry the touch-stone should be and is that if an order has been passed mala-fidely for illegal gratification or embezzlement of money or with ulterior motive, surely the authority is required to be proceeded with and not otherwise.

13. In the present case there is no material, much less there is no allegation in the charges itself that the petitioner-respondent has in any way committed an embezzlement or misappropriation of public money or with ulterior motive has put loss to the State and, therefore, learned Single Bench was absolutely right in quashing the order of punishment dated 27.07.1999.

... xxx ...

17. From perusal of the allegations in the charge-sheet, the explanation thereto in the statement of charge and the evidence and the findings recorded by the Enquiry Officer as well as the order passed by the disciplinary authority in the present case shows that at





the most petitioner can be termed to be guilty of committing a judicial error and such error by no stretch of imagination can be alleged as misconduct under the Rajasthan Civil Service (Classification, Control and Appeal) Rules, 1958. As it has already been discussed in the preceding paras, there is no allegations against the petitioner with respect to any corrupt practice, ulterior motive, embezzlement or misappropriation then in these circumstances proceedings against the petitioner and awarding a penalty of stoppage of entire withholding of 100% pension is absolutely uncalled for, much less the same cannot be termed as misconduct.

... xxx ...

20. *Needless to say, unless, the action of the officer discharging quasi judicial authority is based on ulterior motive or strenuous consideration or embezzlement then certainly the recourse to disciplinary proceedings is available to the State Government. In the present case, neither there is any foundation nor there is any allegation to that effect. Therefore, we are of the considered opinion that the finding arrived at by the learned Single Bench is required to be upheld.*

21. *Resultantly, the appeal has no merit, the same is hereby dismissed and the order dated 21.07.2015 passed by learned Single Bench is upheld.*

22. *Since the matter is very old and the petitioner (herein respondent) is also a person of old age, the State Government is directed to pay the entire amount admissible to the petitioner, as per the order dated 21.07.2015, passed by learned Single Bench within a period of two months from today. No order as to costs."*

15. Applying ratio of aforesaid settled principles, in the case in hand, impugned disciplinary proceedings cannot be sustained. Neither the charge-sheet nor the enquiry report nor the order of punishment contains any allegation that the petitioner acted with *mala fides*, corrupt motive, dishonest intention, favouritism or any other extraneous consideration. The entire foundation of the proceedings is that the petitioner wrongly exercised jurisdiction by granting khatedari rights in respect of land recorded as *Gochar*. Such an allegation, even if assumed to be correct, may at best disclose an erroneous quasi-judicial determination; it does not, by itself, constitute misconduct warranting disciplinary action.

16. The enquiry report proceeds on the premise that since Section 16(1) of the Act 1955 prohibits accrual of khatedari rights





over pasture land, the petitioner necessarily committed grave negligence. This reasoning overlooks the well-recognised distinction between an erroneous quasi-judicial decision and misconduct. The Inquiry Officer has recorded no finding that the petitioner acted recklessly, deliberately ignored the statutory provisions, or was actuated by any improper motive. The finding of guilt is thus founded upon disagreement with the legal conclusion reached by the petitioner while discharging quasi-judicial functions.

17. Equally, the disciplinary authority has failed to independently examine the petitioner's detailed representation against the enquiry report. The impugned order merely reproduces the charge, notices the findings of the Inquiry Officer and records concurrence therewith without dealing with the petitioner's specific defence that the decree had been passed after considering the pleadings, the revenue records, the Patwari's report, the no-objection filed by the Tehsildar, the recommendations of the Regularisation Committee and the contemporaneous revenue entries. The impugned order, therefore, suffers from complete non-application of mind and does not satisfy the requirement of a reasoned decision.

18. The record also discloses substantial procedural irregularities during the enquiry. Despite repeated requests, the petitioner was not supplied all the documents relied upon by the department. Out of the four witnesses cited in support of the charge, only one witness was examined, who admittedly was not posted in the concerned office during the relevant period. More importantly, the



then Tehsildar, whose written statement constituted one of the principal bases of the quasi-judicial order dated 10.01.2002 and who was undoubtedly the most material witness, was neither summoned nor examined despite the petitioner's request. The petitioner's own statement was also not recorded. These deficiencies have caused serious prejudice to the petitioner's defence and vitiate the fairness of the enquiry.

19. Another circumstance which cannot be ignored is the inordinate and unexplained delay in initiating the disciplinary proceedings. The quasi-judicial order in question was passed on 10.01.2002, whereas, the charge-sheet came to be served only on 30.08.2017, nearly fifteen years thereafter and on the very date of the petitioner's retirement. No satisfactory explanation for such inordinate delay has been furnished. The disciplinary proceedings ultimately culminated in the punishment order dated 30.04.2025, more than twenty-three years after the alleged incident. Such unexplained delay has inevitably prejudiced the petitioner and further undermines the sustainability of the proceedings.

20. Even otherwise, the punishment imposed is wholly disproportionate. The petitioner has been permanently deprived of his entire pension. Pension is not a bounty but a valuable statutory right earned by an employee for the services rendered during his career. Though Rule 7 of the Rules of 1996 empowers the His Excellency the Governor to withhold or withdraw pension in cases of grave misconduct or negligence, such power must be exercised only where the statutory requirements are fully satisfied. In the absence of any finding of corruption, moral



turpitude, dishonesty or any other grave misconduct, the permanent withholding of 100% pension for what is alleged to be an erroneous quasi-judicial order is manifestly arbitrary and grossly disproportionate.

21. So far as the judgments relied upon by the learned counsel for the respondents are concerned, in **S. Govinda Menon's case (supra)**, the Hon'ble Supreme Court held that disciplinary proceedings against an officer exercising quasi-judicial powers are permissible where there are allegations of misconduct, *mala fides* or conduct unbecoming of a government servant.

Also, T. Natarajan (**Supra**) is concerned, same deals with the plea of delay in initiation of disciplinary proceedings, held that mere delay would not vitiate the proceedings unless such delay results in prejudice to the delinquent officer. The said decision, however, did not concern disciplinary proceedings founded solely upon an allegedly erroneous quasi-judicial order, nor did it examine the question whether such an order, in the absence of any allegation of mala fides, corrupt motive, dishonesty or recklessness, could itself constitute misconduct. Likewise, Rajit Singh (**Supra**) arose in the context of proved financial irregularities resulting in a quantified loss to the Government, and the Hon'ble Supreme Court was principally concerned with the applicability of the doctrine of negative equality and the consequence of violation of principles of natural justice on account of non-supply of documents. Neither of the aforesaid judgments, therefore, deals with the foundational issue involved in the present case, namely, whether disciplinary proceedings can be sustained



solely on the basis of an allegedly erroneous quasi-judicial order which had attained finality, in the absence of any allegation or finding of mala fides, corrupt motive, dishonesty, favouritism or recklessness.

22. In the considered opinion of this Court, the respondents have failed to establish that the petitioner committed "grave misconduct or negligence" within the meaning of Rule 7 of the Rules of 1996.

The disciplinary proceedings are founded solely upon a difference of opinion regarding the legality of a quasi-judicial order and not upon any misconduct recognised in service jurisprudence. The impugned proceedings, therefore, cannot be sustained in law.

23. Consequently, the impugned order dated 30.04.2025 imposing the penalty of permanent withholding of 100% pension deserve and is hereby quashed and set aside.

24. The writ petition accordingly succeeds and is allowed.

25. The respondents are directed to restore the petitioner's pension and complete the entire exercise of disbursing the pension along with all consequential arrears within a period of two months from the date of receipt of a certified copy of this order.

26. Stay applications and all pending applications, if any, also stand disposed of.

(MUKESH RAJPUROHIT),J

46/Inder