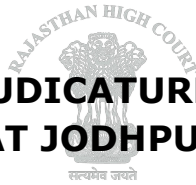




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



S.B. Civil Writ Petition No. 8961/2022
CNR: RJHC010410612022 | URN: CW / 18050U / 2022

LR's of Babu Mohammed Panwar S/o Shri Mishru Khan :

1. Lali Bano wd/o Late Babu Mohammed Panwar, aged 56 years,
2. Javid Babu Panwar s/o Late Babu Mohammed Panwar, aged 36 years,
3. Sahid Babu Panwar s/o Late Babu Mohammed Panwar, aged 26 years,
All residents of Teliyo Ka Mohalla, VPO Lambiya, Tehsil Jaitaran District Beawar
4. Soniya Bano D/o Late Babu Mohammed Panwar, w/o Firoz Mohammed, aged 34 years, R/o VPO Raas, Tehsil Jaitaran, District Beawar
5. Parina Bano D/o Late Babu Mohammed Panwar, w/o Saddam Hussain, aged 32 years, R/o VPO Govindgarh, Tehsil Pisagan, District Ajmer
6. Heena Bano D/o Late Babu Mohammed Panwar, w/o Abdul Basit, aged 30 years, R/o Borawad, Tehsil Makrana, District Didwana-Kuchaman
7. Flora Bano D/o Late Babu Mohammed Panwar, w/o Abdul Qyyum, aged 28 years, R/o Riyan Badi, Tehsil Merta, District Nagaur

-----Petitioners

Versus

1. State Of Rajasthan, Through Secretary, Department Of Education, Govt. Of Rajasthan, Jaipur.
2. The Director, Secondary Education, Rajasthan, Bikaner.
3. The District Education Officer, Head Quarter, Secondary Education, Pali.

-----Respondents

For Petitioner(s) : Mr. R.S. Choudhary
For Respondent(s) : Mr. Bhupesh Charan for Mr. N.K. Mehta, Dy.G.C.

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Reportable

Order

21/08/2026

1. The present writ petition has been filed by the petitioner assailing memorandum and charge-sheet dated 24.05.2022 (Annx-12) issued by respondent No.3 under Rule 16 of the



Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (hereinafter referred to as "the Rules of 1958").

2. The brief facts, as emerging from the pleadings, are that the petitioner, while serving as P.T.I. Grade-III, was placed under suspension vide order dated 31.07.2015 (Annex.2) on account of his having remained in judicial custody for more than 48 hours in connection with FIR No.63/2015 (Annex.1) registered at Police Station Anandpur Kalu for offences under Sections 498-A, 304-B and 406 of I.P.C. The petitioner was subsequently enlarged on bail. The criminal case arising out of the said FIR remained pending before the competent criminal court.

3. The petitioner repeatedly approached the respondents seeking revocation of the order of suspension. He had earlier preferred S.B. Civil Writ Petition No.6544/2022, which came to be disposed of by this Court vide order dated 09.05.2022 (Annex.10) with a direction to the competent authority to consider and decide his representation in the light of the judgment rendered in *Manvendra Singh Vs. State of Rajasthan & Ors., S.B. Civil Writ Petition No.4276/2018, decided on 21.12.2018.*

4. Pursuant to the aforesaid order, the petitioner submitted his representation (Annex.11) before the competent authority. However, instead of deciding the representation, respondent No.3 issued the memorandum and charge-sheet dated 24.05.2022 (Annex.12) under Rule 16 of the Rules of 1958. It is submitted that charges levelled against the petitioner substantially arose out of the same occurrence which was the subject matter of the pending criminal prosecution.



5. A reply has been filed by the respondents opposing the writ petition.

6. During the pendency of the present writ petition, the petitioner, Babu Mohammed Panwar, has expired on 27.04.2026.

Thereafter, an application has been moved for taking his legal representatives on record. The said application has been allowed by this Court vide order dated 28.07.2026 and the legal representatives of the deceased petitioner have accordingly been brought on record.

7. Heard learned counsel for the parties.

8. Learned counsel appearing for the petitioner has submitted that, in view of the subsequent death of the petitioner, the disciplinary proceedings initiated against him pursuant to the impugned charge-sheet cannot be continued. It is further submitted that no final order imposing any penalty upon the petitioner was passed during his lifetime and, therefore, the disciplinary proceedings cannot survive after his death.

9. In support of his submissions, learned counsel for the petitioner has relied upon the decisions in ***Gulam Gausul Azam & Others Vs. State of U.P. & Others, Writ No.18653/2012, decided on 12.05.2014; Hirabhai Bhikanrao Deshmukh Vs. State of Maharashtra & Another*** reported in ***(1985) ILLJ 469 Bom.***; and ***Shrimati Sumitra Dhurve Vs. The State of Madhya Pradesh, 2025 MHPC JBP 15555.***

10. Per contra, learned counsel appearing for the respondents has opposed the writ petition and submitted that the charge-sheet was validly issued by the competent authority under the Rules of





1958. It is contended that the writ petition, at the stage of its institution, was premature, as the petitioner had an opportunity to submit his reply and participate in the departmental enquiry. It is further submitted that the departmental proceedings and the criminal prosecution operate in distinct fields and are governed by different standards of proof. On these grounds, dismissal of the writ petition has been sought.

11. I have considered the submissions advanced by learned counsel for the parties, perused the material available on record and examined the judgments relied upon by learned counsel for the petitioner.

12. At the outset, there is no quarrel with the general proposition that departmental proceedings and criminal prosecution are distinct in nature and that mere pendency of a criminal case does not, by itself, render departmental proceedings impermissible. It is also well settled that ordinarily a charge-sheet is not interfered with at the threshold by exercising jurisdiction under Article 226 of the Constitution of India, particularly when the charge-sheet has been issued by the competent authority and the delinquent employee is available to participate in the disciplinary proceedings in accordance with law.

13. However, the present case stands on a different footing on account of a subsequent event which occurred during the pendency of the writ petition. The petitioner, Babu Mohammed Panwar, admittedly expired on 27.04.2026 and his legal representatives have already been brought on record pursuant to the order dated 28.07.2026.



14. The question which, therefore, arises for consideration is whether the disciplinary proceedings initiated against the petitioner pursuant to the memorandum and charge-sheet dated 24.05.2022 can be continued after his death, particularly when no final order imposing any disciplinary penalty upon him had been passed during his lifetime.

15. A disciplinary proceeding is instituted to enquire into the alleged misconduct of a delinquent employee and, if the charges are established in accordance with the prescribed procedure, to impose an appropriate penalty upon such employee under the applicable service rules. The proceeding is thus intrinsically connected with the delinquent employee and the disciplinary consequences that may follow against him.

16. In ***Hirabhai Bhikanrao Deshmukh's case (supra)***, the Bombay High Court, while considering an analogous issue, held that an enquiry into the conduct of a deceased employee cannot be continued for the purpose of imposing a departmental penalty upon him. The Court recognized that disciplinary proceedings, being intended to culminate in a disciplinary consequence against the delinquent employee, cannot ordinarily survive after his death where no final order of penalty had been passed during his lifetime. The relevant observations in the said judgment read as under :-

“5. Thus the facts do not admit any doubt that Bhikanrao was subjected to the process of suspension during the pendency of the disciplinary proceedings and that the proceedings did not terminate by any final order. The report of the Tahsildar dated 4th June, 1979 and the note thereon by the then Sun-Divisional Officer on 5th June, 1979 are indicative that there was no substance in the charges



against the delinquent Talathi. However, by the time Bhikanrao died on September 10, 1978, the disciplinary proceedings did not terminate and the suspension continued.

6. The provisions with regard to dismissal, removal and suspension of the civil servant do not permit holding of any further enquiry into the conduct of such a civil servant after his death. Such proceedings are intended to impose departmental penalty and would abate by reason of the death of civil servant. The purpose of proceedings is to impose penalty, if misconduct is established against the civil servant. That can only be achieved if the civil servant continues to be in service. Upon broader view the proceedings are quasi-criminal in the sense it can result in fault finding and further imposition of penalty. The character of such proceedings has to be treated as quasi-judicial for this purpose. In the light of the character of the proceedings and the nature of penalty like dismissal or removal, or any other penalties, minor or major, it has nexus to the contract of service. Therefore, if the person who has undertaken that contract is not available, it should follow that no proceedings can continue. Thus when the proceedings are quite personal in relation to such a contract of service, the same should terminate upon death of the delinquent. By reason of death, such proceedings would terminate and abate. We think that such a result is also inferable from the provisions of Rule 152-B of the Bombay Civil Services Rules.

7. Once the proceedings come to an end by reason of death, the provisions of Rule 152-B, Sub-rule (2) of the Bombay Civil Services Rules state that notwithstanding anything contained in Rule 151 where a Government servant under suspension dies before the disciplinary proceedings are concluded, the period between the date of suspension and the date of death has to be treated as duty for all purposes and the family of such civil servant is required to be paid full pay and allowances for that period subject to adjustment in respect of subsistence allowance already paid.

8. These being the express provisions available in the Bombay Civil Services Rules which were admittedly applicable to the Talathi, the petitioners, who are the members, were entitled as of right to have full pay and allowances which were payable to Bhikanrao subject to deduction of subsistence allowance, if any, already paid.

9. These express provisions available in Rule 152-B(2) have not even been kept in view nor referred to by the Sub-Divisional Officer, Khamgaon while making the impugned order dated 2nd February, 1984. Reading of that order shows that it proceeds on the basis of certain assumptions and we are surprised that in the face of the Rule as well as clear position of law with regard to termination of inconclusive proceedings by reason of death, such an order has been made. We have already explained that the detention of Talathi Bhikanrao under S. 183 of the Maharashtra Land Revenue Code was for the purpose of recovering documents and nothing else. That was neither as a result of any Court proceedings nor the result of any





penalty imposed in any disciplinary proceedings. By merely referring to that detention, the Sub-Divisional Officer was not justified in further holding that it is presumed that the Talathi was found guilty and he should have been dismissed at that time by the then Sub-Divisional Officer, Khamgaon. The order at Annexure-D thus is clearly unsustainable and will have to be set aside.”

17. Similarly, in ***Gulam Gausul Azam's case (supra)***, the Allahabad High Court held that after the death of the delinquent employee, departmental proceedings could not be continued so as to culminate in imposition of a departmental penalty upon the deceased employee.

18. The underlying rationale is that a disciplinary enquiry is not an abstract proceeding for determination of culpability; rather, it is a proceeding directed against the delinquent employee with a view to determining whether he has committed misconduct and whether any penalty prescribed under the service rules is warranted. Therefore, in the absence of the delinquent employee, continuation of such proceedings for the purpose of imposing a penalty upon him cannot be sustained.

19. In the present case, it is not in dispute that the petitioner died on 27.04.2026. It is also not the case of the respondents that any final order imposing disciplinary penalty pursuant to the impugned charge-sheet dated 24.05.2022 had been passed prior to his death. Thus, irrespective of the rival contentions with regard to the validity of the charge-sheet, the disciplinary proceedings cannot now be continued against the deceased petitioner.

20. The objection of the respondents that the writ petition was premature at the time of its institution also does not persuade this Court. The death of the petitioner is a subsequent event having a



direct and substantial bearing upon the relief sought in the writ petition as well as upon the continuance of the disciplinary proceedings. The Court is entitled to take note of such subsequent events where they materially affect the rights of the parties or render further continuation of the proceedings legally impermissible. In the present case, the subsequent event goes to the very root of the disciplinary proceedings.

21. In view of the aforesaid subsequent development, this Court is not required to examine the other grounds raised by the petitioner challenging the charge-sheet. In view of the death of the petitioner, consideration of these grounds has become academic.

22. In view of the above, this Court is of the considered opinion that the disciplinary proceedings initiated against the petitioner pursuant to the memorandum of charge-sheet dated 24.05.2022 cannot be continued after his death and, therefore, are liable to be brought to an end.

23. Accordingly, the present writ petition is allowed. The memorandum of charge-sheet dated 24.05.2022 (Annx.12) issued against Late Babu Mohammed Panwar and all consequential disciplinary proceedings pursuant thereto are hereby quashed and set aside, being incapable of continuation on account of the death of the delinquent employee on 27.04.2026.

24. The respondents shall consider the claim of the legal representatives of the deceased petitioner for consequential service and retiral benefits admissible under the applicable service rules, in accordance with law. Such consideration shall be made





uninfluenced by the impugned charge-sheet and the disciplinary proceedings which have come to an end on account of the petitioner's death.

25. It is, however, made clear that this Court is not expressing any opinion on the merits of the allegations arising out of FIR No.63/2015 or recording any finding regarding the guilt or innocence of the deceased petitioner in the criminal case.

26. Stay petition as well as other pending application(s), if any, shall also stand disposed of accordingly.

(MUKESH RAJPUROHIT),J

156/Inder