

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.3588/1995
Bansidhar Swami vs. State & Ors.

Date of order : 31/3/2009.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri R.R. Kumawat for the petitioner.
Shri Zakir Hussain, Addl. Govt. Counsel for
the respondents.

Heard learned counsel for the parties.

This writ petition has been filed challenging the order of penalty dated 15/19.11.1994 by which one grade increment of the petitioner was stopped with cumulative effect.

The petitioner was working on the post of Patwari. He was served with the notice under Rule 17 of the Rajasthan Civil Services (Classification, Control and Appeal), Rules of 1958 (for short-CCA Rules) on 21.9.1994 for absence of certain days.

Petitioner submitted reply to the notice. The SDO, Khetri by its impugned order dated 15/19.11.1994 awarded the penalty of one grade increment with cumulative effect.

Shri R.R. Kumawat, learned counsel for the petitioner has argued that penalty of stoppage of one grade increment with

cumulative effect could not be imposed in the scope of Rule 17 of the CCA Rules as this amounted to major penalty for which disciplinary proceeding in accordance with the provisions contained in Rule 16 of the CCA Rules was required to be held. The impugned order of penalty is without jurisdiction. In support of his argument, learned counsel relied on division bench judgement of this Court in Krishna Dutta Sharma vs. State-RLR 1987 (1) 346. It is additionally argued that in terms of DOP Circular No.F.3(1)Karmik/A-III/85 dt. 4.3.1987, the SDO was authorised to impose minor penalties upto stoppage of two grade increments without cumulative effect in respect of the members of the Subordinate Service including Patwaris. The SDO, even otherwise, was not competent to impose such penalty.

Learned Additional Government Counsel opposed the writ petition but is not in a position to dispute the proposition of law laid down by division bench of this Court in Krishna Dutta Sharma, *supra* and the fact that the competence of the SDO was confined

to only imposing minor penalties.

In the result, this writ petition is allowed. The impugned order is quashed and set aside. The petitioner shall be entitled to consequential benefits together with interest @ 6% per annum.

Compliance of the judgement be made within a period of three months from the date of its production before the respondents.

(MOHAMMAD RAFIQ), J.

RS/