

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 13th OF APRIL, 2024

WRIT PETITION No. 5761 of 2019

BETWEEN:-

**VINOD S/O SHRI T.R. PARMAR, AGED ABOUT
44 YEARS, OCCUPATION: SERVICE
VIDHYAPATI NAGAR UJJAIN (MADHYA
PRADESH)**

.....PETITIONER

(BY SHRI ARIHANT KUMAR NAHAR, ADVOCATE)

AND

- 1. DEPARTMENT OF HOME AFFAIRS
PRINCIPAL SECRETARY VALLABH
BHAWAN BHOPAL (MADHYA PRADESH)**
- 2. DEPUTY INSPECTOR GENERAL, HOME
DEPARTMENT UJJAIN RANGE, MR-2,
NANAKHEDA, BHARATPURI (MADHYA
PRADESH)**
- 3. SUPERINTENDENT OF POLICE HOME
DEPARTMENT POLICE CONTROL ROOM,
(MADHYA PRADESH)**
- 4. SMT. REENA W/O ANTAR SINGH
CHOUHAN P-13, POLICE LINE, UJJAIN
(MADHYA PRADESH)**

.....RESPONDENTS

***(BY MS.GEETANJALI CHAURASIA, PANEL LAWYER APPEARING ON
BEHALF OF ADVOCATE GENERAL)).***

.....
This petition coming on for order this day, the court passed

the following:

ORDER

1. This petition has been filed by the petitioner under Article 226 of the Constitution of India, against the order dated 31.12.2018, passed by the respondent No.2/Deputy Inspector General, Ujjain Range, District Ujjain (M.P.) whereby, invoking the power of review under Regulation 270 (1) of the M.P. Police Regulations (hereinafter referred to as “the Police Regulation”) in an appeal preferred by the petitioner, whereby, the stoppage of increment with non-cumulative effect ordered by the respondent No.3/Superintendent of Police, Police Control Room, Ujjain, District-Ujjain was challenged, it has been observed that the stoppage of one increment for one year without cumulative effect is not proportionate to the infraction attributed to the petitioner.

2. The present petition has been filed only on the ground that the respondent No.2 has no jurisdiction to proceed *suo-motu* under Regulation 270 (1) of the Police Regulation. Although an objection was raised by the petitioner before the respondent No.2 but, the same was rejected by the respondent No.2 vide the impugned order dated 31.12.2018.

3. Counsel for the petitioner has drawn the attention of this Court to the Regulation 270 of the Police Regulation, which clearly provides that every order of punishment or exoneration, whether

original or appellate shall be liable to revision *suo-motu* by any authority superior to the authority making the order.

4. Thus, it is submitted that since the order of revision has been passed by the appellate authority itself and not by any superior authority then the appellate authority, the order is without jurisdiction and is liable to be quashed on this ground only.

5. Counsel for the petitioner has also relied upon the decision rendered by the co-ordinate Bench of this Court in the case of *Vikram Singh Rana vs. State of Madhya Pradesh and others reported as 2006(2) M.P.L.J. 560*.

6. A detailed reply to the petition has also been filed by the respondents and it is stated that the case of the petitioner would be governed by Regulation 270 (4) of the Regulation, which provides for powers of the revising authority.

7. Reliance is also placed on the decision rendered by this Court in the case of **Mahendra Prasad Ojha vs. State of M.P. and others {Writ Petition No. 8601/2021 dated 05.1.2022}** to submit that the said case is identical to that of the present petitioner.

8. Counsel for the respondents has also submitted that in the case of *Mahendra Prasad Oja (supra)*, a plea was taken by petitioner of double jeopardy, which contention has been rejected by this Court.

9. Heard the counsel for the parties, and also perused the record.

10. Having considered the rival submissions, perusal of the documents filed on record, it is found that so far as the Regulation 270 is concerned, the same reads as under :-

“270. (1) Every order of punishment of (sic) exoneration, whether original or appellate shall be liable to revision suo-motu by any authority superior to the authority making the order.

(2) Every appellate order by a final appellate authority shall be liable to revision by such final appellate authority, on application made in that behalf by the person against whom the order has been passed.

(3) The provisions of Regulations 266, 267, 268 and 271 shall, as nearly as may be, apply to an application for revision.

(4) The revising authority may for reasons to be recorded in writing exonerate or may remit, vary or enhance the punishment imposed or may order a fresh enquiry or the taking of further evidence in the case:

Provided that it shall not vary or reverse any order unless notice has been served on the parties interested any opportunity given to them for being heard.”

(emphasis supplied)

11. A perusal of the aforesaid Regulation 270 (1) of the Regulation clearly reveals that an appellate authority cannot proceed any revision *suo-motu*, which can only be done by the authority superior to the appellate authority or the authority making the order. Whereas, as per Clause (2), in those cases, where the appellate authority had passed any adverse order against any person, only at the instance of the said person, the appellate authority can invoke the power of the revision, and admittedly, in the present case, the order in appeal has been passed by the Deputy

Inspector General, Ujjain under Reg.270(1) only and not under 270 (2), thus he would not have any jurisdiction to exercise the powers of revision.

12. A perusal of the Regulation 270 (4) of the Regulations, on which the respondents have relied upon, also reveals that it only provides for powers of the revising authority and has nothing to do with the power of appellate authority exercising its revisional jurisdiction, which can only be done under special circumstances as provided under sub-rule (1) (2) of Regulation of 270 of the M.P. Police Regulation.

13. So far as the decision relied upon by the counsel for the respondents in the case of **Mahendra Prasad Ojha** (supra) is concerned, the same is distinguishable on facts and has absolutely no application in the facts and circumstances of the case, as it was not a dispute in the aforesaid case that the appellate authority has revised its own order.

14. In view of the same, this Court is inclined to allow the writ petition and accordingly, the impugned orders dated 31.12.2018 and 21.01.2019 (Annexure-P/1 and P/2) respectively are hereby quashed.

15. This Court also notes that in the present case, as many as four applications for vacating the stay have been filed along with applications for urgent hearing of the petition. It is

incomprehensible as to what was the urgency that the State wanted to demonstrate as even prima-facie, the petition was liable to be allowed. In such circumstances, a cost of **Rs.2,500/-** (Rupees Two Thousand Five Hundred only) is imposed on the OIC concerned.

16. The aforesaid cost of Rs.2,500/- (Rupees Two Thousand Five Hundred only) shall be payable in the account of “President and Secretary High Court Employees Union” {Account No.63006406008, Branch Code No.30528, IFSC No. SBIN0030528, CIF No.73003108919} within a period of four weeks from the date of receipt of certified copy of this order, and the acknowledgement of the same shall be also filed before the Registry of this Court.

17. With the aforesaid observation, the Writ Petition stands *allowed*.

(SUBODH ABHYANKAR)
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