


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 9720/2025

Dr. Brij Ballabh Sharma S/o Shri Sua Lal Sharma, Aged About 74 Years, Resident Of 4, Civil Lines, Near Collectors Residence, Jhalawar, Rajasthan. Retired As Dy. Director, Prosecution, Kota.

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary To The Government, Department Of Personnel, Secretariat, Rajasthan, Jaipur.
2. Director, Prosecution, Department Of Home (Group-10), State Of Rajasthan, Secretariat, Jaipur.
3. Director (Pension), Department Of Pension, Government Of Rajasthan, Jaipur.

----Respondents

For Petitioner(s) : Mr. H.V. Nandwana
Mr. Yash Nandwana
Mr. G.V. Chauhan
Mr. Savyasachi Puri
Ms. Yashvi Sharma

For Respondent(s) : Mr. Archit Bohra, AGC

HON'BLE MR. JUSTICE MUNNURI LAXMAN

Order

09/04/2026

1. With the consent of learned counsel for the parties, the writ petition is heard on final disposal at the admission stage itself.
2. The present writ petition has been filed challenging the initiation of disciplinary proceedings by memorandum of charges dated 10.03.2008 under Rule 17 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (hereinafter referred to as "the Rules of 1958"), subsequent proceedings altering the proceedings under Rule 17 to Rule 16 of the Rules of 1958 and also the appointment of an enquiry officer by proceedings dated 01.05.2025.
3. The case of the petitioner is that the petitioner was working as an Assistant Public Prosecutor, Grade-I in the Court of the

Additional Chief Judicial Magistrate, Aklera, Jhalawar. The duration of his work was from 13.07.1994 to 01.08.1995. It is alleged in the memorandum of charges, which is impugned, that the petitioner has committed misconduct on four counts: first, wrong mention of dates of filing of challan in the register; second, wrong mention of the date of disposal of the cases pending in the Courts; third, the dates of sending back the files were kept empty; and fourth, the annual verification of the pending and disposed of cases was not furnished. Those allegations relate to the act or omission done in maintaining the register which the office of the Assistant Public Prosecutor is required to maintain. The said initial proceedings were initiated in the year 2008, that too on the verge of retirement, by proceedings dated 10.03.2008 and the petitioner retired from service on 31.08.2010. Just before the retirement of the petitioner, a notice dated 05.05.2010 was issued proposing to alter the enquiry from Rule 17 to Rule 16 of the Rules of 1958. This conversion was based on the alleged perception of the disciplinary authority that the conduct alleged in the earlier memorandum of charges was of a grievous nature. Subsequently, by proceedings dated 01.05.2025, the enquiry officer was appointed.

4. The grievance of the petitioner is that the entire action is a motivated one and it is a result of vengeful conduct on the part of the disciplinary authority. According to him, the obligation to maintain the register was cast upon the clerk who was assigned to the office of the Assistant Public Prosecutor and it is not the duty of the Assistant Public Prosecutor to make the entries in the register. There is no such obligation cast either in the duty chart or under the Rules by which his services were governed. It is his

further grievance that, even though the allegations are of a trivial nature, those allegations were drawn as if there was grave misconduct and the enquiry was altered from Rule 17 to Rule 16 of the Rules of 1958 only to deny the reaping of retiral benefits and delay the benefit which the petitioner was entitled to get on retirement.

5. Learned counsel for the petitioner also submitted that the initial enquiry is also vitiated for the reason that the enquiry was done in the year 2008 for the events which occurred in the year 1994-95 i.e. after an inordinate delay of almost 13 years, which itself is a demonstrative of the fact that the entire proceedings are drawn only to take vengeance against the petitioner. Any disciplinary proceedings must be within a reasonable time and 13 years with reference to the trivial allegations concerned is not a reasonable time so as to continue the proceedings. It is also his submission that till date the petitioner, who has almost crossed 75 years of age and is on his deathbed, has failed to get any retiral benefits. Therefore, he seeks quashment of the entire disciplinary proceedings including all the consequential proceedings.

6. Learned counsel appearing on behalf of the respondents - State submitted that the disciplinary proceedings were drawn in the year 2008 though relating to an event that occurred in 1994-95 and the reasonableness of the period has to be considered in relation to the nature of allegations. The allegations clearly show that there are multiple omissions relating to the discharge of duties and there is grave misconduct on the part of the petitioner in maintaining the record and in furnishing the information required by the concerned authorities. According to him, the initial perception of the disciplinary authority was that the allegations

were trivial in nature, which were later treated as grave ones, as such the disciplinary authority has converted the proceedings under Rule 17 to Rule 16 of the Rules of 1958 and the same itself cannot be treated as an act of vengeance. He also submits that there is no limitation for such initiation of proceedings and it depends upon the gravity of the charges. According to him, there are grave charges against the petitioner, therefore, he prays to dismiss the writ petition.

7. This Court, having gone through the foundation for initiation of charges, feels that the charges relate to omissions in entries in the register to be maintained by the office of the Assistant Public Prosecutor. The omissions attributed are that the dates of disposal of cases and dates of sending the files are either wrongly mentioned or completely omitted from being mentioned and another charge is that the verification list pertaining to pending and disposed cases was not furnished. This event pertains to the year 1994-95 in the Court where the petitioner worked in Jhalawar. There is no material to accompany the memorandum of charges to show that there is an obligation upon the Assistant Public Prosecutor, for maintenance of the entries in the register, created in the duty chart or under the Rules. It is an undisputed fact that clerical staff is assigned to the office of the Assistant Public Prosecutor and it is the case of the petitioner that the data is required to be entered by the clerk and not by the Assistant Public Prosecutor. Apart from that, the respondents also failed to prove such an act or omission resulting in violation of any duty chart or the governing Rules inviting misconduct under the Rules.

8. After going through the allegations, this Court is also of the view that the allegations are of a trivial nature and not that grave,

inviting serious disciplinary proceedings under Rule 16 of the Rules of 1958. These proceedings were initiated after an unreasonable period of 13 years and nothing has been stated justifying such inordinate delay. Further, the disciplinary authority, having issued the initial charge under Rule 17, had chosen to convert such proceedings into a grave charge under Rule 16, that too just before retirement of the petitioner. The manner in which the proceedings are drawn and the manner in which the proceedings are converted into a grave nature is a clear manifestation of abuse of power vested with the disciplinary authority. The act of the disciplinary authority is a reflection of an act of vengeance. Due to the act of the respondents, unfortunately, the petitioner, who retired in 2010, was deprived of almost all the retiral benefits including finalization of the pensionary benefits. In the above facts and circumstances, this Court is inclined to allow the writ petition.

9. In the result, the writ petition is **allowed**. The impugned charge-sheet and the consequential proceedings, converting the charge from Rule 17 to Rule 16 of the Rules of 1958, and the appointment of the enquiry officer are quashed.

10. Looking to the act of the respondents, a cost of Rs.50,000/- is imposed on the respondent No. 1 payable to the petitioner within a period of three months.

11. All pending applications, if any, stand disposed of.

(MUNNURI LAXMAN),J