


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 24243/2017

Sukh Pal Singh S/o Shri Ram Lal, Resident Of 101A, Bhagwati Nagar-II, Kartarpura, Jaipur.

----Petitioner

Versus

1. State Of Rajasthan, Through Secretary To The Government, Social Justice And Empowerment Department, Secretariat, Jaipur.
2. Director, Social Justice And Empowerment Department, Government Of Rajasthan, G-3/1, Raj Residential Area, Near Civil Line Phatak, Jaipur.

----Respondents

For Petitioner(s)	:	Mr. H.N. Nandwana Mr. Yashvardhan Nandwana Mr. G.V. Chouhan Mr. Savyasachi Puri Ms. Yashwasi Sharma
For Respondent(s)	:	Mr. Manish Bhardwaj for Mr. Amitosh Pareek, Dy.G.C.

HON'BLE MR. JUSTICE MUNNURI LAXMAN

Order

29/04/2026

1. Heard.
2. The present writ petition has been filed challenging the order of dismissal dated 02.12.2014 (Annexure-17) passed by the disciplinary authority, as confirmed by the appellate authority vide order dated 04.06.2015 (Annexure-20).
3. The brief facts leading to the present proceedings are that the petitioner, while working as a District Social Welfare Officer at Jaisalmer, had fraudulently drawn an amount of Rs.1.77 Lakhs for payment of remuneration to contract employees through local

placement agency in November, 2007 and again he allegedly withdrew an amount of Rs.77,814/- for payment to the outsourced employees for the month of July 2007 to September 2007 and also there are discrepancies between the payments and the number of employees working. The respondents initiated proceedings by framing a charge-sheet, and the petitioner submitted his explanation to the charge-sheet. The disciplinary authority, unsatisfied with the explanation submitted by the petitioner, appointed an enquiry officer. The enquiry officer, while fixing the enquiry date, issued notice to both parties. The petitioner did not turn up pursuant to the notice of enquiry, and based on documents furnished by the departmental witness, the enquiry report was submitted holding that the charges were proved. The said enquiry report was furnished to the petitioner, and the petitioner submitted his reply to the said enquiry report before the disciplinary authority. The disciplinary authority, having concurred with the findings of the enquiry officer, passed the impugned order of dismissal. An appeal was preferred by the petitioner, which was dismissed and further representations preferred by the petitioner also seem to have been made, which were also rejected; as such, the present writ petition.

4. The primary contention of learned counsel for the petitioner is that the enquiry was conducted in a manner unknown to law. According to him, though the petitioner was absent in the enquiry proceedings, the procedure of examining the departmental witness could not have been dispensed with, and the document submitted by him informally could not have been treated as a part of the record unless properly brought on record. It is also his

submission that entire finding of enquiry officer was based on informally submitted documents. On this ground, the enquiry report is required to be quashed, the order of dismissal and the order of the appellate authority are required to be set aside, and the matter is required to be remanded back.

5. Learned counsel for the respondents submitted that since the petitioner did not turn up despite a number of notices issued by the enquiry officer, the enquiry officer proceeded to submit the enquiry report based on the documents submitted by the departmental witness. Though such documents were not proved by examining the departmental witness, that itself cannot be termed as a defective enquiry. On this ground, interference by this Court is not warranted for the reason that there is double payment of amount for the services rendered by the outsourcing agencies, and, therefore, he prays for dismissal of the writ petition.

6. The facts which are not in dispute are that the enquiry officer was appointed by the disciplinary authority, being unsatisfied with the explanation submitted by the petitioner. The charge was that the petitioner had fraudulently withdrawn amounts for the services rendered by the contractual employees through the outsourcing agency. The defence of the petitioner was that both the amounts were not paid, and he had paid only one amount, which, according to the respondents, was treated as a double payment.

7. The enquiry officer, while fixing the enquiry, issued notice to both parties. When the petitioner was absent on the date fixed for the enquiry, the enquiry officer should have recorded the evidence of the departmental witness and the documents relied upon should have been brought on record by proper procedure. The

absence of the petitioner only result in forfeiture of his right of cross-examination. On the fixed date, there was no obligation to produce any evidence. At the most, his absence resulted in forfeiture of his right to cross-examine the witness examined by the departmental authority. The enquiry officer, instead of examining the witness of the department to prove the charges against the petitioner, adopted the procedure of taking the documents informally and treated the informal submission of documents as a proper admission to make it part of evidence in the enquiry. This procedure is unrecognized and unknown to law.

8. Even if the delinquent is absent, the burden lies on the department to prove the charges, and to prove such charge, they are required to enter into the witness box and rely upon whatever documents they relied upon. This was not done. On this ground, the entire enquiry gets vitiated, and the impugned order is liable to be set aside and the proceedings are liable to be remanded for fresh proceedings from the stage of conducting enquiry.

9. In the result, the writ petition is **allowed** as follows:

- i. The order of dismissal dated 02.12.2014 (Annexure-17) is set aside and the matter is remanded for fresh enquiry to be commenced by the same enquiry officer or any other enquiry officer by properly issuing notice to both parties.
- ii. The respondents are directed to treat the interregnum period, from the date of dismissal to the date of this order, as deemed suspension and 50% of subsistence allowance shall be calculated and paid to the petitioner and the same shall be continued to be paid until conclusion of the enquiry.

iii. Pending further enquiry, the petitioner is also continued to be on suspension. The enquiry shall be concluded within a period of six months and appropriate orders shall be passed thereon.

10. All pending applications, if any, shall stand disposed of.

(MUNNURI LAXMAN),J