



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



S.B. Civil Writ Petition No. 5692/2002

Durga Lal Verma S/o Shri Ramdev Verma, aged about 48 years,
R/o Mohalla Regaran, Behind Naya Mandir, Ward No.8,
Todaraisingh, District Tonk.

-----Petitioner

Versus

District Collector, Tonk.

-----Respondent

For Petitioner(s) : Mr. Manoj Pareek
For Respondent(s) : None present

JUSTICE ANOOP KUMAR DHAND

Order

26/03/2025

Reportable

1. By way of filing this writ petition, a challenge has been led to the charge-sheet dated 31.01.2002 (Annx.4) issued to the petitioner under Rule 16 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (for short, 'the Rules of 1958').
2. Learned counsel for petitioner submits that prior to issuance of the aforesaid charge-sheet, enquiry was initiated against the petitioner whereby the petitioner was called upon to deposit an amount of Rs.3,822/-, which was deposited by the petitioner on 30.06.1989. Counsel submits that thereafter, the District Collector, Tonk directed the Tehsildar, Todaraisingh to drop the matter. In pursuance of the aforesaid directions, issued by the District Collector, the Tehsildar dropped the proceedings vide order dated 18.07.1991. Counsel submits that for the charge of



misappropriation of the aforesaid amount, the petitioner faced criminal trial before the Court of Special Judge, Prevention of Corruption Act, Jaipur, wherein he was acquitted vide judgment dated 26.09.2000. Counsel submits that thereafter, again the respondents issued the present charge-sheet with regard to the similar charges, even after dropping the identical charges in favour of petitioner in the year 1991.

3. Counsel submits that subsequent charge-sheet with regard to the same charges cannot be issued against the petitioner and even then, the same has been issued in violation of the provisions of law. Hence, under these circumstances, interference by this Court is warranted. He lastly argued that during pendency of the instant writ petition, the petitioner stood retired and the respondents have withheld all the retiral dues of the petitioner.

4. No one has put in appearance on behalf of respondents, in spite of service.

5. Heard and considered the submission made at the Bar and perused the material available on record.

6. Perusal of the record indicates that a criminal case under Section 5 of the Prevention of Corruption Act, 1988 was registered against the petitioner with the charge that he committed misappropriation of an amount of Rs.3,822/-, wherein he was acquitted by the Court of Special Judge, Prevention of Corruption Act, Jaipur, vide judgment dated 26.09.2000. Prior to passing of the aforesaid order, certain departmental action was taken against the petitioner whereby he was called upon to deposit the amount in question, which was deposited by the petitioner on 30.06.1989 and thereafter, the District Collector, Tonk took a decision to drop



the matter, based upon the charges of embezzlement/ misappropriation alleged against the petitioner vide order dated 18.07.1991 and directed the Tehsildar, Todaraisingh to close the matter and drop the proceedings and in pursuance of the same, the Tehsildar Todaraisingh has dropped the proceedings which were initiated against the petitioner. Now after a lapse of more than a decade, a subsequent charge-sheet, with regard to the same charges, has been issued against the petitioner alleging that he has misappropriated an amount of Rs.3,822/-.

7. Once a disciplinary enquiry has been closed/ dropped against the delinquent employee, the matter comes to an end and the Disciplinary Authority cannot restore the exercise of initiating any second enquiry on the same subject, in absence of any specific power to review, revise or re-initiate the matter in the second enquiry. In absence of any such legal provision, the second enquiry, on the same subject, amounts to double jeopardy and the same cannot be allowed to sustain and is liable to be quashed and set aside.

8. In the case of **State of Assam & Anr. Vs. J. M. Roy Biswas** reported in **1975 (31) FLR 355**, the Hon'ble Apex Court has held that absence of power under a Rule inhibits a second enquiry by a Disciplinary Authority, after the delinquent had once been absolved.

9. Issuing of second charge-sheet on the same set of facts is impermissible, as the same is hit by Article 20(2) of the Constitution of India and amounts to double jeopardy. The similar view has been taken by the Hon'ble Apex Court in the case of **Lt.**



Governor, Delhi & Ors. Vs. HC Narinder Singh reported in **2004 (13) SCC 342** wherein it has been held in Para4:-

"4. Reading of the show-cause notice suggests as if it is in continuation of the departmental proceedings. Lack of devotion to duty is mentioned as the reason for the proposed action which was the subject-matter of the earlier proceedings as well. The second proposed action based on the same cause of action proposing to deny promotion or reversion is contemplated under the impugned show-cause notice. Second penalty based on the same cause of action would amount to double jeopardy. The Tribunal was, therefore, right in law in annulling such an action. We are not expressing any opinion on the ambit or scope of any rule."

10. Ratio decidendi of the above judgment was followed by the Hon'ble Supreme Court in the case of **Union of India & Anr. Vs. Kunisetty Satyanaryan** reported in **(2006) 12 SCC 28** which held in Para 18 as under:-

"18. We agree with the learned counsel for the respondent that if the charge which has been levelled under the memo dated 23-12-2003 had earlier been enquired into in a regular enquiry by a competent authority, and if the respondent had been exonerated on that very charge, a second enquiry would not be maintainable."



11. The aforesaid action on behalf of respondents amounts to double jeopardy, once the petitioner has deposited the aforesaid amount and the matter has been closed in his favour way back in the year 1991 by passing two closer orders by none other than the Disciplinary Authority and the petitioner has been acquitted of all the charges by the Competent Court of law, then there is no good reason or action available for the respondents to issue the subsequent charge-sheet with regard to the same set of charges alleged against the petitioner. Hence, such action on behalf of respondents is arbitrary, unjustified and is not sustainable in the eyes of law and the same is liable to be quashed and set aside.

12. In view of the discussions made herein above, it can be safely held that there is no Rule to indicate that the second enquiry on the same charges could again be initiated against the petitioner. Once all the similar charges were dropped by the respondents, the respondents were not justified and competent to initiate the second enquiry, on the basis of second charge-sheet issued on the same charges.

13. As a consequence thereof, the instant writ petition stands allowed and the impugned second Charge-sheet stands quashed in favour of the petitioner.

14. The respondents are directed to release all the retiral dues to the petitioner with interest @ 9% p.a., within a period of three months from the date of receipt of certified copy of this order with all consequential benefits.

15. Stay application and other pending application(s), if any, stand disposed of.

(ANOOP KUMAR DHAND),J

RONAK JAIMAN/26