



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). _____ OF 2024
(Arising out of SLP(Civil) No(s). 12891 of 2022)

SUB INSPECTOR SANJAY KUMAR

.....APPELLANT(S)

VERSUS

**STATE OF UTTAR PRADESH
& ORS.**

....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Heard.
2. Leave granted.
3. The appellant herein, while being posted as Sub-Inspector at Police Station Hanumanganj, District Khushinagar, Uttar Pradesh, was condemned for gross negligence, indifference and selfishness in discharge of duties *vide* office order dated 16th November, 2021¹ issued by the Additional Chief Secretary, Home (Police). As a consequence, he was handed down a penalty of censure *vide* letter

¹ In short 'impugned order'.

dated 7th March, 2022 issued by the Superintendent of Police,
District Khushinagar.

4. The relevant part of the impugned order is reproduced
hereinbelow for the sake of ready reference: -

“Uttar Pradesh Government

Home (Police) Section-1

Number: U.O.-74(23)/6-P-1-21-107/2021

Lucknow: Date: 16 November 2021

Office Order

In the video conferencing held by the hon'ble Chief Minister on dt. 09.09.2021, during the review of disposal of investigations of state's law and order, crimes, and the cases registered till dt. 31.07.2021, in the 12 districts which have disposed of the least number of investigations, 03 sub-inspectors and inspectors have been identified and after receiving their clarifications, the investigating officers' name, designation, current deployment details/report, were made available by Addl. Director General of Police (Crime), U.P., Lucknow vide letter number DG-7-S 2(1)/2021 dated 26.09.2021.

2- According to the clarification provided by the Addl. Director of Police (Crime) U.P., Lucknow, Mr. Sanjay Kumar, Sub-Inspector, PNO-982650369, PS Hanumanganj, District Khushinagar didn't show the expected interest in the disposal of investigations. This act is a sign of gross negligence, indifference and selfishness while performing his duty and is highly condemned.

S/d

illegible

(Avnish Kumar Awasthi)

Additional Chief Secretary

Number and Date as in:

Copy: Sent to the following for information and necessary action: -

- (1) Director General of Police, Uttar Pradesh, Lucknow
- (2) Additional Director Establishment, U.P., Lucknow General of Police,
- (3) Additional Director General of Police, Police Headquarters, U.P., Lucknow
- (4) Additional Director General of Police, Gorakhpur Zone, Gorakhpur
- (5) Superintendent of Police, Dist. Khushinagar provided 03 copies with the intention of handing over 01 copy to Mr. Sanjay Kumar, Sub- Inspector, PNO-982650369, PS Hanumanganj, District Khushinagar and the receipt to be made available to the government and censure to be mentioned in their character record

(6) Guard Book.
By Order,

S/d illegible

(Mahendra Prasad Bharti)

Joint Secretary”

5. The appellant preferred a writ petition² before the High Court of Judicature at Allahabad assailing the impugned order and the consequent censure entry made in his service book. The learned Single Judge dismissed the writ petition denying relief to the appellant *vide* order dated 23rd March, 2022. Being aggrieved, the appellant preferred an intra-Court writ appeal³ which came to be dismissed by the Division Bench of Allahabad High Court *vide*

² Writ-A No. 830 of 2022.

³ Special Appeal (Defective) No. 150 of 2022.

judgment dated 9th May, 2022 which is assailed in the present appeal by special leave.

6. Learned counsel for the appellant, vehemently and fervently contended that no opportunity to show cause was ever afforded to the appellant before imposing the penalty of censure upon him. He urged that the impugned order and the consequent communication issued by the Superintendent of Police, District Khushinagar, are in clear breach of the provisions of the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991⁴ and also suffer from the *vice* of non-adherence to the principles of natural justice.

7. The learned counsel for the appellant emphatically referred to Rule 5 read with Rule 14(2) of the Rules, 1991 and urged that no notice in writing was issued to the appellant before subjecting him to the penalty of censure. It was submitted that specific plea in this regard was incorporated in the pleadings before the learned Single Judge as well as the Division Bench of the High Court. However, the pertinent assertion which goes to the root of the matter, was not considered by the High Court in the right perspective. Learned counsel pointed out that the learned Single

⁴ In short 'Rules, 1991'.

Judge dismissed the writ petition filed by the appellant merely by recording oral instructions procured by the Standing Counsel for the State and without even requiring the respondents to submit their reply. Thus clearly, the decision on the writ petition was made without the reply of the State being taken on record and hence, the assertions made by the appellant remained uncontroverted.

8. Learned counsel further urged that the specific ground taken by the appellant regarding the impugned order having been passed without affording an opportunity to show cause or without giving any opportunity to make representation against the same, has not been traversed by the respondents in the counter affidavit filed in this Court. He thus urged that the impugned order dated 16th November, 2021 and the letter dated 7th March, 2022 suffers from gross violation of the principles of natural justice and are *de hors* the Rules, 1991 and consequently, the appellant deserves relief sought for in the appeal.

9. *Per-contra*, learned Standing Counsel appearing for the State, vehemently and fervently opposed the submissions advanced by the learned counsel for the appellant. He urged that the Chief Minister of Uttar Pradesh, analysed the law and order situation in different districts of the State while taking a review meeting with

the officials of the Home Department. The Chief Minister sought information as to whether the investigations in accordance with law were being carried out and duly completed by the concerned police officials. As a consequence, the Additional Chief Secretary, Government of Uttar Pradesh directed the Commissioners of Police, Senior Superintendents and Superintendents of Police of various districts of the State to submit detailed reports along with the names of Investigating Officers, who had not completed the investigations and/or submitted a police report before the Court in time.

10. In pursuance of the aforesaid direction, the Circle Officer Khadda, District Khushinagar issued a notice dated 25th September, 2021 to the appellant seeking response on the issue of long pendency of investigations assigned to him. The appellant duly submitted his reply to the above notice sent by the Circle Officer. As per learned counsel for the respondents, the reply offered by the appellant was forwarded to the senior police officials and was found to be unsatisfactory. Based on these communications, the Additional Deputy General of Police prepared a report furnishing the individual details of three erring Investigating Officers from each district. The appellant was

identified as one of the slack Investigating Officers in the District Khushinagar, Uttar Pradesh who had failed to complete the minimum number of investigations and his name was included in the detailed report, which was submitted to the Government. Based on this report, the Additional Chief Secretary, Home (Police) issued the impugned order dated 16th November, 2021, condemning the appellant for gross negligence, indifference and selfishness while performing his duties and not completing the assigned investigations within the specified time frame.

11. In consequence of the above order, the Superintendent of Police being the officer competent under the Rules, issued a communication dated 7th March, 2022, whereby an adverse entry was directed to be recorded in the appellant's service book. The learned counsel for the respondents fervently urged that it is incorrect to say that the decision to record the censure entry was taken without following the due process of law or without adhering to the principles of natural justice.

12. We have heard the submissions advanced by learned counsel for the parties at bar and have gone through the material placed on record.

13. The short question requiring consideration is, whether the direction to record the censure entry in the appellant's service book suffers from the *vice* of non-adherence to the principles of natural justice and whether the said action is *dehors* the Rules, 1991.

14. The relevant rules of the Rules, 1991⁵ which are germane to the controversy at hand are reproduced hereinbelow: -

“Rule 4 - Punishment

(1) The following punishments may, for good and sufficient reasons and as hereinafter provided, be imposed upon a Police Officer, namely: -

(a) Major Penalties:

- (i) Dismissal from service.
- (ii) Removal from service.
- (iii) Reduction in rank including reduction to a lower scale or to a lower stage in a time scale.

(b) Minor penalties:

- (i) With-holding of promotion.
- (ii) Fine not exceeding one month's pay.
- (iii) With-holding of increment, including stoppage at an efficiency bar.
- (iv) **Censure.**

Rule 5 - Procedure for award of Punishment

(1) The cases in which major punishments enumerated in clause (a) of sub-rule (1) of Rule-4 may be awarded, shall be dealt with in accordance with the procedure laid down in sub-rule (1) of rule-14.

(2) The cases in which minor punishments enumerated in clause (b) of sub-rule (1) of rule-4 may be awarded, shall be dealt with in accordance with the procedure laid down in sub-rule (2) of rule-14.

(3) The cases in which minor penalties mentioned in sub-rules (2) and (3) of rule-4 may be awarded shall be dealt with in accordance with the procedure laid down in rule-15.

⁵ *Ibid.*

Rule 7- Powers of punishment

(1) The Government or any officer of police department not below the ranks of the Deputy Inspector General may award any of the punishments mentioned in rule-4 on any police officer.

(2) The Superintendent of Police may award any of the punishments mentioned in sub-clause (iii) of clause (a) and clause (b) of sub-rule (1), of rule-4 on Inspectors and Sub-Inspectors.

(3) The Superintendent of Police may award any of the punishments mentioned in rule-4 on such police officers as are below the rank of Sub-Inspectors.

(4) Subject to the provisions contained in these rules all Assistant Superintendents of Police and Deputy Superintendents of Police who have completed two years of service as Assistant Superintendents of Police and Deputy Superintendents of Police as the case may be, may exercise powers of Superintendent of Police except the powers to impose major punishments under rule-4.

(5) Notwithstanding anything contained in these rules Reserve Inspector, Inspector of Station Officer may award the punishments of drill and fatigue duty to any constable under his charge for a period not exceeding three days, but he shall inform the Superintendent of Police concerned of his order immediately and in any case within 24 hours of passing the order.

Rule 14 - Procedure for concluding departmental proceedings

(1) Subject to the provisions contained in these Rules, the departmental proceedings in the cases referred to in sub-rule (1) of rule 5 against the police officers may be conducted in accordance with the procedure laid down in Appendix-I.

(2) Notwithstanding anything contained in sub-rule (1) punishments in cases referred to in sub-rule (2) of rule 5 may be imposed after informing the police officer in writing of the action proposed to be taken against him and of the imputations of act or omission on which it is proposed to be taken and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal.

(3) The charged police officer shall not be represented by Counsel in any proceeding instituted under these Rules.”

(emphasis supplied)

15. Rule 4 of the Rules, 1991 prescribes the punishments which can be awarded to the employees of the Police Department. Rules 5 and 14 prescribes the procedure to be followed prior to the award of such punishment(s) and Rule 7 prescribes the authority competent to impose the punishments. A bare perusal of the Rules makes it clear that the minor penalties are provided in Rule 4(1)(b) of the Rules, 1991 which includes censure, as awarded to the appellant, and the procedure for awarding such minor penalties has been set out in Rule 14(2) read with Rule 5(2) of the Rules, 1991.

16. Rule 14(2) read with Rule 5(2) of the Rules, 1991 provides that the minor penalties as provided under Rule 4(1)(b) can be imposed only after informing the delinquent police officer in writing of the action proposed to be taken against him and of the imputations of act or omission on which it is proposed to be taken and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal.

17. At this juncture, it is pertinent to mention that in lieu of the directions issued by the Additional Chief Secretary, Home (Police) to prepare a report concerning the delinquent police officer(s) who were not completing the investigation of their cases within the

specified time frame, the Circle Officer, Khadda, District Khushinagar issued a notice dated 25th September, 2021 to the appellant requiring him to furnish an explanation and show cause regarding a long list of cases pending investigation with him. In response to the above notice, the appellant furnished an explanation to the Circle Officer, Khadda, District Khushinagar on the very same day wherein he claimed that most of his time was consumed in managing VIP duties and other external duties assigned to him, and consequently, he could not complete the investigation of 13 cases pending with him.

18. A detailed report with the names of three worst performing Investigating Officers including that of the appellant was forwarded to the Government through the Additional Director General of Police. After going through the report, the Additional Chief Secretary, Home (Police) issued the impugned order dated 16th November, 2021 noting the conduct of the appellant and observing that he exhibited signs of gross negligence, indifference and selfishness while performing the duties and that such conduct was highly condemnable. The said order was forwarded to the Superintendent of Police who passed the consequential order

dated 7th March, 2022 with a direction to record a censure entry on the personal file of the appellant.

19. Rule 7(2) of the Rules, 1991, empowers the Superintendent of Police to award the punishments under sub-clause (iii) of clause (a) and clause (b) of sub-rule (1) of Rule 4 on Inspectors and Sub-Inspectors. Therefore, without any doubt, the Superintendent of Police was having the jurisdiction to award minor penalty of censure to the appellant who was, at the relevant point of time, posted as the Sub-Inspector of Police at Police Station Hanumanganj, District Khushinagar, Uttar Pradesh.

20. Apparently thus, the censure entry directed to be recorded *vide* letter dated 7th March, 2022, was awarded by the Superintendent of Police, District Khushinagar, who was competent to do so as per Rule 7(2) of the Rules, 1991. The order dated 16th November, 2021 was passed by the Additional Chief Secretary, Home (Police), after taking into consideration the entire material on record including the detailed factual report forwarded by the Additional Director General of Police which included the explanation of the appellant and assigned reasons for reaching the conclusion that the appellant did not show interest in the disposal of the investigations which was treated to be a sign of gross

negligence, indifference and selfishness while performing duties and was thus highly condemnable. Therefore, the contention advanced by the learned counsel for the appellant that the censure entry was directed to be recorded by an Officer who was not competent and that the same suffers from the *vice* of non-adherence to the rules/principles of nature justice is not tenable.

21. Resultantly, we are of the view that the High Court committed no error whatsoever in rejecting the writ petition and writ appeal preferred by the appellant, assailing the censure entry.

22. The appeal lacks merit and is dismissed. No order as to costs.

23. Pending application(s), if any, shall stand disposed of.

.....**J.**
(PAMIDIGHANTAM SRI NARASIMHA)

.....**J.**
(SANDEEP MEHTA)

New Delhi;
September 27, 2024