
(1996) 05 RAJ CK 0005
In the Rajasthan High Court
Case No : C.W. Petition No. 1101 of 1993

Amar Chand

APPELLANT

Vs

RSRTC and Others

RESPONDENT

Date of Decision : 13-05-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 2 RLW 87 : (1996) 1 WLN 420

Hon'ble Judges : N.K. Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

N.K. Jain, J.—It is alleged that the petitioner was appointed as Driver in the year 1977 with RSRTC he was served with a charge-sheet under clause 34 of the Standing Order on 1.7.1991 (Ex. 1). The respondent no.3 after considering the material on record imposed punishment of stoppage of one annual grade increment with cumulative effect vide order dt. 12.8.1993 (Ex.4). The petitioner preferred an appeal (Ex.5) on 7.10.1993 and the respondent No.2 dismissed the same vide order dt. 8.11.1993 (Ex.6) on the ground that it is not maintainable as no appeal lies against the order of punishment. Hence, this writ petition challenging the order Ex. 4 and Ex. 6.

2. In pursuance to the show cause notice issued on 24.4.1995, the respondents have filed reply stating that disputed questions of fact are involved and alternative remedy is available in view of Gopilal Teli v. State 1995 WLC (Raj) 1. On merits it has been stated that enquiry report has been given to the petitioner and opportunity of hearing after enquiry was also given which was admitted by the petitioner vide Ex. R/5, in compliance of the personal hearing notice issued to petitioner vide Ex. R/4 dated 24.7.1993. It has also been stated that version taken in reply Ex.2 is quite different to Ex. R/1 while joining duty and he has referred to document Anx. R/1. It has been further stated that the charge-sheet dt. 1.7.1991 was served on 3.7.1991 but the filed reply before the Enquiry

Officer despite time granted. The Enquiry Officer submitted his report but the Disciplinary Authority after going through the material on record remanded the matter to the enquiry officer that the incumbent should be given a chance to defend himself. In compliance of the order of the Disciplinary Authority, the Enquiry Officer again issued a notice and the petitioner appeared but ultimately he did not appear. The Enquiry Officer submitted his report but the Disciplinary Authority again remanded the matter. This time the petitioner appeared and cross-examined and sought time to produce evidence. Thereafter on completion of enquiry notice Anx.R-4 was issued by Disciplinary Authority and statement of workman was recorded vide Anx. R/5.

3. The only contention of the learned counsel for the petitioner is that a copy of the enquiry report was not supplied and a copy of the complaint was also not supplied and further principles of natural justice have not been followed. He has relied on Management of Northern Railway Co-operative Society Ltd. Vs. Industrial Tribunal, Rajasthan, Jaipur and Another, and submits that entire proceedings are liable to be vitiated.

4. On the other hand learned counsel for the respondents submits that the enquiry has been conducted in accordance with the rules and regulations of the respondents while following the principles of natural justice and this Court under Article 226 of the Constitution cannot interfere in such matters as alternative remedy is available. He has relied on the decisions reported in State Bank of Patiala and others Vs. S.K. Sharma,

5. I have heard learned counsel for the parties and perused the material on record and relevant case law.

6. Undoubtedly, this Court can entertain writ petition even when alternative remedy is available if the order impugned is passed without jurisdiction or the proceedings are void ab-initio and against the principles of natural justice. Since the legal position is not in dispute it is not necessary to deal the case law in detail.

7. A perusal of Clause 36 of the RSRTC Standing Orders shows that penalties from (v) to (vii) mentioned there in are appealable whereas for remaining penalties there is no provision of appeal . The punishment imposed on the petitioner falls within Sub-clause (ii) of the Clause 36. Therefore, it cannot be said that the concerned authority while dismissing the appeal of the petitioner as not maintainable vide Ex. 6 dt. 8.11.1993 has committed any error or illegality. So as call for any interference in the writ petition.

8. So far as the challenge to Ex.4 impugned order of disciplinary authority is concerned, the same is neither without jurisdiction nor it has been passed in violation of the principles of natural justice, therefore, I am not inclined to interfere in the extra ordinary jurisdiction so also even supervisory jurisdiction cannot be invoked to rectify the error. Since the counsel for the petitioner insists that this Court should examine the challenge to Ex.4 on merits, I have no option

but to consider the case on merits.

9. In the instant case, the counsel for the petitioner has not been able to show that how the order impugned in this writ petition is without Jurisdiction, so as to call for any interference. It is also not in dispute that before passing the order, the petitioner was given sufficient opportunity to defend, so it cannot be said that the principles of natural justice have been violated as the ground of non-supply of enquiry report also stands belied as per Ex. R/5 which is placed on record. The petitioner has not stated before the authorities below while participating in the proceedings that he has not received a copy of the complaint when the matter was remanded twice by the Disciplinary Authority. That apart the petitioner has not been able to show what prejudice has been caused to him. In view of this, it cannot be said that the impugned order suffers from any illegality so as to call for any interference under Article 226 of the Constitution of India. The decision cited by the counsel for the petitioner is not of any help as in this case the petitioner was given sufficient opportunity of hearing.

10. Accordingly, the writ petition has no force and the same is hereby dismissed.? The dismissal of the writ petition will not debar the petitioner from availing the alternative remedy, if available to him according to law.