(2014) 07 RAJ CK 0134

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2434/1997

Anand Prakash Bora APPELLANT

Vs

State of Rajasthan RESPONDENT

Date of Decision : 08-07-2014

Acts Referred:

Citation : (2014) 07 RAJ CK 0134

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Mahesh Bora, Sr. Advocate and Nishant Bora, Advocate for the Appellant; Anirudh Purohit on behalf of V.K. Mathur, Advocate for the Respondent

Final Decision : Allowed

Judgement

Dr. Vineet Kothari, J.—The present case pertains to 50 years back in history. The petitioner at the relevant point of time was working as Lower Division Clerk (LDC) in the Department of Commercial Taxes (ACTO, RPGT, Ward-''C'', Jodhpur. He along-with other clerical staff, ten in number, of the said Department were jointly charge sheeted for disciplinary action on account of certain missing files of the assessment record of the tax assessees in the said Department.

2. A joint enquiry was held against the various staff members including the petitioner and the Enquiry Officer found all of them guilty of negligence in maintaining the record properly and all the 10 staff members were punished with the penalty like stoppage of one grade increment with cumulative effect.

3. Mr. Mahesh Bora, learned Sr. Advocate assisted by Mr. Nishant Bora, learned counsel for the petitioner urged that against the penalty imposed against the staff members in the same enquiry proceedings, two staff members approached this Court by filing writ petitions and their writ petitions came to be allowed setting aside the impugned penalty orders. Thereafter the petitioner filed a representation to the respondent, Commissioner, to give him similar and fair treatment to the present petitioner also. The said representation (Annex. P/8)

dated 03.03.1994 came to be rejected by the learned Dy. Commissioner of Head Office, Commercial Taxes Department, Jaipur, vide the order impugned (Annex. P/9) dated 24.08.1996 by a short order saying that since the judgments of the High Court dated 27.03.1984 and 16.04.1991 in relation to two other staff members were not applicable, therefore, in the context of the same, the relief claimed by the present petitioner could not be given and the representation was liable to be rejected and being aggrieved by that order, the petitioner has filed the present writ petition in this Court on 04.12.1996.

4. Learned counsel for the petitioner, Mr. Bora, further urged that the impugned order (Annex. P/9) dated 24.08.1996 is a non-speaking order and without assigning any reason, the representation of the petitioner has been rejected by the concerned authority without even discussing the details about the facts of those staff members.

5. Since prima facie, a joint enquiry was held against all 10 staff members of the said office, an equal treatment deserves to be meted out to these persons. He, however, submitted that he does not have readily the copies of orders passed by High Court in other two cases, which have been referred in the impugned order (Annex. P/9) of the Deputy Commissioner. He, therefore, submitted that the petitioner may be relegated back before the learned Commissioner of the Commercial Taxes Department and he may be directed to consider the representation of the petitioner afresh. He would also in the meanwhile obtain the certified copies of these orders passed by High Court and file the same along-with his fresh representation before the learned Commissioner of the respondent Department.

6. Though learned counsel for the respondents tried to support the impugned orders but fairly submits that fresh representation, if any, made to the Commissioner, the same would be considered in accordance with law.

7. Considering the submissions made at the bar, this Court is of the opinion that the impugned order (Annex. P/9) dated 24.08.1996 cannot be sustained, as the same does not assign any reason whatsoever for rejection of the representation of the petitioner. Prima facie, the petitioner was also entitled to the same treatment specially when the writ petitions filed by two other staff members were allowed by this Court, which the Department accepted and granted the relief. Since a joint enquiry was held in the matter, unless the Department assigns cogent reasons to distinguish the case of the present petitioner, the petitioner would also be entitled to the same treatment. In any case, the matter deserves to be reconsidered by the learned Commissioner of the Commercial Taxes Department discussing all the relevant details of the matter.

8. Consequently, this writ petition is allowed and the impugned order (Annex. P/9) dated 24.08.1996 is quashed and set aside. The petitioner is directed to file fresh representation along-with copies of the judgment passed by this Court and the learned Commissioner, Commercial Taxes Department, shall decide the

representation again within a period of three months from today after giving opportunity of hearing to the petitioner. No costs. A copy of this order be sent to the concerned parties forthwith.

