
(2010) 07 RAJ CK 0031
In the Rajasthan High Court

Bachchu Ram Sharma

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 16-07-2010

Acts Referred:

Constitution of India, 1950 — Article 14

Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 — Rule 13(5)

Citation : (2010) 07 RAJ CK 0031

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Judgement

Ajay Rastogi, J.—Counsel submits that petitioner while holding the post of Sub-Inspector on account of criminal case being registered against him under Prevention of Corruption Act was placed under suspension vide order dt.19.10.05. After filing of the challan, charge has not been framed so far and trial will take its own time. At the same time, Counsel further submits that on two different occasions whenever his services were required/needed, the disciplinary authority revoked the order of suspension but immediately thereafter he was again placed under suspension as evident from orders dt.15.12.08 & 23.06.09 and in pursuance to order dt.22.2.2010 the petitioner is presently undergoing suspension which according to him is an arbitrary exercise of power and violative of Article 14 of the Constitution of India.

2. He although made application for reconsideration/revocation Under Rule 13(5) of the Rules, but the authority has failed to consider the same. He further submits that without examining the continuation of suspension as to whether it is required or not, the authorities are blindly invoking the circular of the State Government dt. 10th August, 2001 while deciding the representation/review of suspension submitted by the employee under Rule 13(5) of the Rajasthan Civil Services (CCA) Rules, 1958.

3. Counsel has further placed reliance on judgments of this Court reported in 2005(9) RDD 3962 (Raj.), Prem Prakash Mathur v. State of Rajasthan and Ors.

and so also in 2009 WLC [UC] 701, Vishnu Kr. Gupta and Anr. v. State and Ors. and submits that the Circular issued by the State Government dt.10/08/2001 will not supersede the statutory requirement which is to be complied with by the authority under Rule 13(5) of the Rules.

4. Without going into merits of the matter at this stage, this Court considers it appropriate to direct the petitioner to make a fresh representation for review/reconsideration of the order of suspension dt.19.10.05 read with order dt.22.2.2010 before the competent authority under Rule 13(5) of the Rules, 1958 who may independently examine the same without being influenced by the instructions dated 10th August, 2001 and may also take note of the judgments referred to (supra) and pass speaking order within three months thereafter and decision may be communicated to the petitioner and if still he is aggrieved, will be free to avail the remedy under law.

5. With these directions, writ petition stands disposed of accordingly.