
(2008) 04 RAJ CK 0036
In the Rajasthan High Court

Bachhu Singh

APPELLANT

Vs

President [NAFED] and Others

RESPONDENT

Date of Decision : 01-04-2008

Acts Referred:

Citation : (2008) 04 RAJ CK 0036

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Judgement

Ajay Rastogi, J.—Instant petition has been filed with the grievance that during the period of suspension, subsistence allowance has not been paid to him as per Nafed Conduct, Discipline and Appeal Rules, 1994.

2. Petitioner was appointed as Junior Assistant w.e.f. 1/9/78 and he took voluntary retirement w.e.f. 30th October, 2000. While in service, he was placed under suspension pending inquiry vide order dated 23rd March, 1999. During suspension, subsistence allowance to the extent of 30% of basic pay was paid to him. After inquiry was concluded, petitioner was held to be guilty and vide order dated 30th October, 2000 punishment of reduction to lower stage in time scale by two increments from his basic pay was withheld apart from withholding his three future grade increments with cumulative effect. It was also observed that he shall not be entitled for salary or wages other than subsistence allowance already paid to him for the period of suspension.

3. Counsel for petitioner has confined his submission to the effect that as per Rule 6 of Rules, 1994, during suspension he was entitled for subsistence allowance equal to 50% of the CW 2955/01 [2] basic pay for the period of three months. If it exceeds further delinquent will be entitled for subsistence allowance to the extent of 75% of the basic pay and allowance thereof. According to him, he was not paid subsistence allowance in terms of Rule 6 of the rules to which he was otherwise legally entitled for.

4. Respondents have filed reply to the writ petition and it has been averred in

Para 4 that he has not reported during the period of suspension before the Branch Manager every week as such, it has not been paid to him.

5. I have considered the submission of counsel for parties and with assistance examined the material on record.

6. The averment made by counsel for respondents in Para 4 of reply is totally vague, no details have been furnished with regard to fact that petitioner has not reported on the dates during suspension before the Branch Manager where he was called upon to report under order placing him under suspension. Rule 6 of the Rules, which is relevant for the present purpose, is reproduced as under:

6. SUBSISTENCE ALLOWANCE.

(i) An employee under suspension shall be entitled to draw subsistence allowance equal to 50 percent of the basic pay provided the disciplinary authority is satisfied that the employee is not engaged in any other employment or business or profession or vocation. In addition he shall be entitled to dearness allowance admissible on such subsistence allowance and other allowances he was in receipt of on the date of suspension provided the suspending authority is satisfied that the employee continues to meet the expenditure for which the allowance was granted.

(ii) Where the period of suspension exceeds three months, the authority which made or is deemed to have made the order of suspension, shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first three months as follows:

(a) The amount of subsistence allowance may be increased to 75 percent of basic pay an allowance thereof if, in the opinion of the said authority the period of suspension has been prolonged for reasons to be recorded in writing not directly attributable to the employee under suspension;

(b) the amount of subsistence allowance may be reduced to 25 percent of basic pay and allowance thereon if in the opinion of the said authority, the period of suspension has been prolonged due to the reasons to be recorded in writing, directly attributable to the employee under suspension.

(iii) If an employee is arrested by the Police on a criminal charge and bail is not granted, no subsistence allowance is payable. On grant of bail, if the competent authority decides to continue the suspensions, the employee shall be entitled to subsistence allowance from the date he is granted bail.

7. According to aforesaid rule, it clearly emerges that employee under suspension is entitled to draw subsistence allowance equal to 50% of the basic pay initially for the period of three months which is to be extended upto 75% thereafter. However, under Clause (ii)(b) allowance can be reduced to 25% if suspension has been prolonged if is attributable to employee under suspension.

8. It is not the case of respondents that petitioner has been paid subsistence

allowance in terms of Rule 6 or period of suspension was prolonged because of delay attributable to the delinquent employee. In absence whereof, this Court is of the opinion that petitioner is entitled for 50% of subsistence allowance for the first period of three months and thereafter, to the extent of 75% as referred to in Rule 6, which as per material on record was not paid to the petitioner.

9. Consequently, the writ petition stands partly allowed. The respondents are directed to make payment of subsistence allowance to petitioner of the period of suspension in terms of Rule 6 of Rules, 1994 as observed supra and after its due computation, the same may be paid after adjusting the subsistence allowance already paid during suspension. The order be complied with within three months. No. Order to as to costs.