
(1985) 09 RAJ CK 0064
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1686 of 1983

Damodar Lal Solanki

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 24-09-1985

Acts Referred:

Citation : (1985) WLN 279

Hon'ble Judges : A.K. Mathur, J

Bench : Single Bench

Judgement

Ashok Kumar Mathur, J.—The facts giving rise to this writ petition are that the petitioner was appointed on the post of Naib Tehsildar after being selected by the Rajasthan Public Service Commission. The petitioner was confirmed on the post of Naib Tehsildar with effect from 25th November, 1975 vide order dated 3rd July, 1982. The petitioner was promoted to the post of Officiating tehsildar on an urgent temporary basis or till a suitable candidates are available by the R.P.S.C. which ever is earlier by order dated 24th December, 1975. The D.P.C. for the post of Tehsildar considered the case of petitioner and did not find him suitable and thereby he has been reverted. Aggrieved against this order dated 28-3-83 (Annx. 19) this writ petition has been filed.

2. During 1977-78 the petitioner was working as Tehsildar at Sojat and Sheoganj. He was served with the adverse entry. The petitioner filed representation against this adverse entry. But the Board of Revenue by order dated 8-5-80 rejected the petitioner's representation. Against this the petitioner moved the State Government. Five Departmental Enquiries under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules were initiated against the petitioner. He was given a recorded warning on 22-3-80 by the Collector Sirohi. He filed an appeal before the Board of Revenue and the Board of Revenue after considering the matter has rejected the appeal and stated that warning is not a punishment under the CCA. Rules. One more enquiry under Rule 17 of the CCA. Rules is pending before the Collector Pali. The petitioner has

moved an application dated 1-4-85 before this Court that since the filing of the writ petition and reply certain new developments have taken place that all the five departmental enquiries initiated against him has resulted in his exoneration.

3. The State Government has filed reply and has taken the position that the case of the petitioner was considered on 11/12-3-1983 and at that time there were adverse entries during 1977-80 against the petitioner, there was a stoppage of one grade increment with cumulative effect passed by the Collector Pali on 19-3-1980 and a written warning by the Collector Sirohi on 23-3-1983. It has further been submitted that there were six departmental enquiries pending against the petitioner at the time when the D.P.C. considered the case of the petitioner.

4. I had heard learned counsel for the petitioner and have gone through the whole record.

5. From the reply filed by the State Government it appears that the pendency of six departmental enquiries was a factor at the time when the D.P.C. considered the record. Now all these six enquiries which are said to have been dropped as no case is found against the petitioner. Since at the time of meeting of the D.P.C. this was a very substantial factor apart from other adverse record of the petitioner, when this factor goes out because of the six departmental enquiries have been dropped as such it cannot be predicated that if this factor has not been there at the time of meeting of the D.P.C. petitioner may or may not have selected. But the facts remains that the departmental enquiries were pending when the D.P.C. met and the D.P.C. was influenced by that. Now all the six departmental enquiries have been terminated it is just and fair to direct that the case of the petitioner should be reconsidered on the basis of the record available now by the D.P.C. It is very difficult to say that what would be result when factor of departmental enquiries goes out but I deem proper to remand the case back to the D.P.C. that the case of the petitioner should be reconsidered on the basis of the record and if he is found suitable he should be given all consequential benefits. However, I am not setting-aside the order of reversion.

6. In the result I accept this writ petition in part and direct the respondents to reconsider the case of the petitioner afresh and if he is found suitable then consequential benefits should be given to him. This should be done within a period of six months. There will be no order as to costs.

7. A copy of this order should be sent to the respondent Special Secretary D.O.P.