
(2011) 05 RAJ CK 0106
In the Rajasthan High Court
Case No : Civil Writ Petition No. 13592 of 2009

Dayawanti (Smt.)	Vs	APPELLANT
State of Rajasthan and Others		RESPONDENT

Date of Decision : 13-05-2011

Acts Referred:

Citation : (2011) 3 RLW 2168

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Advocate : Mahendra Singh Gurjar, for the Appellant; Priyanka Pareek, Deputy Government Counsel, for the Respondent

Final Decision : Allowed

Judgement

Mohammad Rafiq, J.—This writ petition has been filed by the petitioner aggrieved by the action of the respondents in refusing to grant her study leave. Petitioner was selected for admission to B.Ed. for B.Ed. Examination, 2009. She was appointed with the respondents on the post of Teacher Gr. III pursuant to her selection by the Rajasthan Public Service committee vide order dated 10/9/2007. Upon selection, she applied for study leave, which was declined. Petitioner however was allowed to attend the classes of B.Ed. Course in Bhartiya Shikshak Prashikshan Mahavidyalaya, Kishangarhbas, Alwar pursuant to the interim-order of this Court dated 21/11/2009. Shri Mahendra Singh Gurjar, learned counsel for the petitioner has argued that according to Rule 110 of the Rajasthan Service Rules, 1951 (for short, "RSR"), petitioner being a permanent resident was entitled to study leave, however respondents have illegally denied the study leave.

2. Ms. Priyanka Pareek, learned Deputy Government Counsel has opposed the writ petition and submitted that petitioner was required to have completed period of three years as per sub-rule (2) of Rule 110 of the RSR.

3. Shri Mahendra Singh Gurjar, learned counsel for the petitioner rejoined and

submitted that sub-rule (2) of Rule 110 of the RSR is only applicable to the temporary government servant. Petitioner being a permanent government servant cannot be denied benefit of study leave.

4. On perusal of the scheme of the rules, I find that sub-rule (1) of Rule 110 of RSR is applicable to the permanent government servant, which provides that Study leave will be admissible to a permanent Government servant to pursue course of study or investigation of a scientific or technical nature which in the opinion of the sanctioning authority is considered necessary in the public interest for the working of the department in which he is employed. It will ordinarily be not granted to a Government servant who has completed 20 years of service or more. Sub-rule (2) thereof provides that study leave will also be admissible to a temporary Government servant who has completed three years of continuous service provided that the initial appointment has been made on the advice of the Rajasthan Public Service Commission.

5. In the present case, although it is true that appointment of the petitioner has been made on her selection by the RPSC and this is a substantive appointment. Such an appointment cannot be said to temporary appointment. Learned counsel for the petitioner has submitted that the result of B.Ed. Examination has not been declared so far.

6. In the circumstances, writ petition is allowed. Petitioner is held entitled to study leave in view of sub-rule (1) of Rule 110 of RSR i.e. for the total period from 24/11/2009 to 12/5/2010 for 170 days. Compliance of the judgment shall be made within a period of three months from the date copy of this order is produced before the respondents.