

(1977) 04 RAJ CK 0007

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1948 of 1976

Gajraj Singh

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 28-04-1977

Acts Referred:

Citation : (1977) RLW 231 : (1977) WLN 245

Hon'ble Judges : D.P. Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.P. Gupta, J.—The petitioner was working as an Inspector, Cooperative Societies and Supervisor of Ramgarh Minor Irrigation Works, Ramgarh (District Alwar) in the year 1971. A charge was levelled against the petitioner that in the aforesaid capacity he made a false verification in respect of the receipt of some equipment and accessories of pumping set etc. supplied to one Makhan Singh of village Sakhla, Tehsil Ramgarh, District Alwar, although the articles were not actually received from the supplier in accordance with the bills. The petitioner denied the allegation contained in the charge sheet and a disciplinary inquiry ensued. The Deputy Registrar, Cooperative Societies, Bharatpur was appointed as the Inquiry Officer, who in his report dated January 8, 1973 came to the conclusion that the charge was proved and that Makhan Singh had not received the articles in accordance with the bills from the supplier and that the petitioner made a false verification report in respect of the delivery of the material in question. A notice was given to the petitioner by the Disciplinary Authority, the Registrar, Cooperative Societies, Jaipur on March 22, 1973 so show cause as to why his two annual grade increments be not withheld. After consideration the petitioner's reply to the show cause notice, the Disciplinary Authority by his order dated May 10, 1973 imposed the punishment of withholding two annual grade increments with cumulative effect on the petitioner. An appeal filed by him before the State Government was rejected and hence this writ petition has been filed.

2. learned Counsel contends that the order passed by the State Government on appeal under Rule 30 should be set aside because, in the first place, the provisions of Rule 30 have not been complied with and secondly, the order passed by the State Government was not a speaking order. I have gone through the documents produced by the petitioner and I feel satisfied that the order passed by the State Govt. does not suffer from any infirmity. When the Appellate Authority agreed with the finding arrived at by the Disciplinary Authority & the inquiry officer it is not necessary for the Appellate Authority to give elaborate reasons while dismissing the appeal. The State Government has come to the conclusion that it was established from the material on record that the entire goods were not delivered to Makhan Singh by the supplier firm but receipt for the full quantity of such goods as shown in the bills was given for claiming the reimbursement from the Co-operative Bank and that (he petitioner was guilty of wrongly verifying the receipt of the entire articles according to the bills. The argument of learned Counsel is that certain observations made by the Inquiry Officer were objected to by the "petitioner as incorrect and the petitioner had stated in his reply to the show cause notice and in the memo of appeal before the State Government that such observations were not well founded. The question, however, remains that the material part of the finding recorded by the inquiry officer, that on checking the goods were not found with Makhan Singh in accordance with the bills, although their receipt in full was duly verified by the petitioner and that the explanation furnished by the petitioner that some of the articles were returned subsequently to the supplier firm was not found proved by the evidence recorded at the inquiry, was unassailable It cannot be held in these circumstances that the provisions of Rule 30 were not followed or that the order passed by the State Government dismissing the appeal filed by the petitioner was not a speaking order. It may be pointed out that, a minor error here or there made by the inquiry officer in his report did not affect the essence of the finding recorded by him and the disciplinary proceedings cannot be held to be vitiated in the present case merely on account of the minor errors which are alleged to have crept in the report of the Inquiry Officer.

3. The next submission made by the learned Counsel is that the Disciplinary Authority has awarded punishments to the petitioner other than that proposed in the show cause notice. According to the learned Counsel the show cause notice only proposed the imposition of penalty of with holding two annual grade increments of the petitioner with cumulative effect, but in the final order passed by the Disciplinary Authority May 10, 1973 besides imposing the aforesaid penalty, the said authority also directed that no further payment should be made to the petitioner for the period during which he remained under suspension and further that the period of suspension shall not be counted for any service benefits while passing the order of reinstatement of the petitioner. According to learned Counsel, another notice should have been given to the petitioner in this respect and reliance has been placed on the decision of their Lordships of the Supreme Court in M. Gopala Krishna Naidu Vs. State of Madhya Pradesh, . In my

view, the Disciplinary Authority while directing the reinstatement of the petitioner, after the penalty of withholding two annual grade increments with cumulative effect was imposed upon him, was required to pass an order as to what proportion of pay and dearness allowance should be paid to the petitioner for the duration he remained under suspension and further as to whether the period of absence from duty, during the period of suspension of the petitioner, shall or shall not be treated as a period spent on duty, for the purposes of service benefits.

4. In the present case the full fledged departmental inquiry was made and the petitioner was found guilty, as the charge levelled against him was found proved and the penalty as proposed in the show cause notice dated March 22 1973 was imposed upon him. The Disciplinary Authority, while directing the reinstatement of the petitioner, was required to pass consequential orders regarding the payment of the remaining portion of the pay and allowances of the petitioner during the period of his suspension besides the subsistence allowance which he had already received and also to direct as to whether the period during which he remained under suspension should or should not be treated as on duty, in accordance with the provisions of sub-Clauses (3) and (5) of Rule 54 of the Rajasthan Service Rules (hereinafter referred to as "the Rules"). The decision of their Lordships of the Supreme Court in *M. Gopala Krishna Naidu Vs. State of Madhya Pradesh*, has no application to the facts of the present case, in as much as in that case the petitioner was exonerated, as he was not found guilty at the departmental inquiry and in such circumstances the question arose as to whether the suspension of the employee and the departmental inquiry were or were not wholly unjustified. In the aforesaid case, their Lordships were not dealing with a case where the Government servant was held guilty as a result of a departmental inquiry and punishment was imposed upon him as a result thereof. In cases where the Government servant was exonerated after a departmental inquiry, the question as to whether he was fully exonerated or not can arise and when a person was reinstated after suspension, the question as to whether such suspension was or was not wholly unjustified could arise. But in a case where the Government servant was found guilty and was punished as a result of departmental proceedings against him, neither the question of quality of exoneration nor the question of unjustifiability of suspension could arise and in such cases there is no need of giving a third show cause notice to the delinquent employee. learned Counsel was unable to place before me any decision where the view propounded by him has been taken that even in cases where the Government servant was found guilty; as a result of departmental proceedings and penalty was imposed upon him, still a further notice should be given to him in regard to the payment of balance amount of his pay and dearness allowance during the period of suspension and to whether such period should be treated on duty or not. In my view in such cases where the Government servant is found guilty and a penalty is imposed upon him on that basis, the entire record would be before the disciplinary authority, including the explanation furnished by the

petitioner and in these circumstances no further notice is required to be given to the delinquent employee for passing an order in accordance with Clauses (3) and (5) of Rule 54 of the rules. More over Sub-Clause (5) of Rule 54 of the Rules clearly provides that in a case falling under Clause (3) the period of absence from duty shall not be treated as a period on duty unless such competent authority specifically directs that it shall be so treated for any specified purpose. Thus, in the case of an employee having been found guilty as a result of departmental proceedings, the period of absence from duty shall not ordinarily be treated as a period spent on duty, unless the disciplinary authority specifically directs that such period shall be treated to have been spent by the Government servant concerned on duty, for any specified purpose.

5. Having considered the provisions of Clauses (3) and (5) of Rule 54 of the Rules, which are applicable to the instant case, I do not find any force in the submissions of the learned Counsel.

6. No other point was argued by the learned Counsel.

7. The writ petition is, therefore, dismissed.