
(2009) 02 RAJ CK 0101
In the Rajasthan High Court

Gyaneshwar

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 27-02-2009

Acts Referred:

Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 — Rule 14

Citation : (2009) 02 RAJ CK 0101

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Govind Mathur, J.—The Dy. Director, Rajasthan Oriental Research Institute, Jodhpur by an order dt. 06.10.1997 instructed for effecting recovery from pay of the petitioner in a tune of Rs. 30,720/- in monthly installments of Rs. 1500/-. By this petition for writ, a challenge is given to the order aforesaid.

2. As per the averments contained in petition for writ, recovery from pay of a Government servant is a penalty prescribed under Rule 14 of the Rajasthan Civil Service Classification, Control and Appeal) Rules, 1958 (hereinafter referred to as 'the Rule of 1958?'). No such recovery is permissible without adhering procedure prescribed under Rule 17 of the Rule of 1958, but by the order impugned dt. 06.10.1997 respondents ordered for making recovery without following the procedure prescribed.

3. Per contra, stand of the respondents is that by the under impugned, recovery from pay is ordered to be made as per provisions of General Financial and Account Rules for causing loss to the institute and that too after affording an opportunity of hearing to the delinquent employee.

4. I have examined entire record.

5. As a matter of fact, the respondents have admitted that before making an order for effecting recovery from pay, no enquiry as per Rule 17 of the Rule of

1958 was made. The respondents in para 20 of the reply stated that a preliminary enquiry was conducted by City Treasury Officer, wherein an opportunity of hearing was accorded to the petitioner and on that basis, the Dy. Director, Rajasthan Oriental Research Institute passed the order dt. 06.10.1997.

6. It is not in dispute that causing loss to the institute is a misconduct and recovery from pay is a minor penalty prescribed under Rule 14 of the Rule of 1958. No recovery from pay could have been made without adhering procedure prescribed under Rule 17 of the Rules aforesaid. In the instant matter, even as per respondents the order to effect recovery is based on findings of a preliminary enquiry, as such it is apparent that no regular enquiry took place before passing the order impugned. In view of whatever said above, it is apparent that the order impugned dt. 06.10.1997 is in violation of Rule 17 read with Rule 14 of the Rules of 1958.

7. Accordingly, this petition for writ deserves acceptance, the same, therefore, is allowed. The order dt. 06.10.1997 passed by the Dy. Director, Rajasthan Oriental Research Institute, Jodhpur is hereby quashed. It shall be open for the respondents to take appropriate decision relating to allege mis-conduct of the petitioner by holding an enquiry as per law.

No order to cost.