

(2011) 05 RAJ CK 0057

In the Rajasthan High Court

Case No : Civil Writ Petition No. 8037 of 2008

Hari Kishan Meena

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 03-05-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 — Rule 16

Citation : (2011) 05 RAJ CK 0057

Hon'ble Judges : Mahesh Bhagwati, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Bhagwati, J.—By way of the instant writ petition, the Petitioner has sought the following relief:

- i) That the Hon''ble Court may kindly be pleased to call the entire record of the case and after examining the same be pleased to pass an appropriate writ, order or direction will quash and set aside the order dated 5.4.2003 (Annexure-4) by which the Petitioner has been removed from service and will further quash and set aside the order dated 14.3.2008 (Annexure-5) by which the appeal filed by the Petitioner has been dismissed, and further may quash and set aside the charge sheet dated 22.3.1990 (Annexure-1).
- ii) Further may direct the Respondents to reinstate the Petitioner back in the service on the post of Class IV employee with all consequential benefits.
- iii) Any prejudicial order to the interest of the Petitioner, if passed during the pendency of the writ petition, the same may kindly be taken on record and be pleased to quash and set aside.
- iv) Any other appropriate writ, order or direction, which this Hon''ble Court may consider just and proper, in the facts and circumstances of the case, may kindly be passed in favour of the Petitioner.

v) Cost of writ petition may be quantified in favour of the Petitioner.

2. Brief facts of the case are that the Petitioner was appointed as Class-iv in the Court of Munsiff and Judicial Magistrate (First Class), Bayana (Bharatpur). Albeit, he was deputed to discharge his duties as Chowkidar, but he did not discharge the same and rather remained absent from duty willfully and sans obtaining prior permission. He disobeyed the directions issued to him from time to time by his superiors and abused them, for which a charge sheet was issued to him.

3. Enquiry Officer, having analyzed the matter in detail, vide his inquiry report dated 12.3.2003 found the delinquent Petitioner guilty of the alleged charges and forwarded the same to the Disciplinary Authority. The Disciplinary Authority, having afforded an opportunity of hearing to the Petitioner, vide his order dated 5.4.2003, removed the Petitioner from service under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958. Being aggrieved by the enquiry report as also the order dated 5.4.2003, the delinquent-Petitioner preferred an appeal before the appellate authority, which also stood dismissed vide order dated 14.3.2008.

4. Having heard the learned Counsel for the Petitioner and carefully perused the relevant material on record, it is noticed that the Petitioner is not only found to have been habitual of remaining willfully absent sans seeking prior permission, but also found to have remained insincere in discharge of his duties. Not only this, he is found to have abused his superiors. Thus, he is a man having blemished service record.

5. This Court is not expected to invoke extraordinary jurisdiction under Article 226 and 227 of the Constitution unless the impugned order is found to be perverse, contrary to material on record or resulting into manifesting injustice. Keeping in view the conduct and the blemished service record of the Petitioner, the disciplinary authority has taken the correct view in imposing the punishment of dismissal from service and that view has been affirmed by the appellate authority. There is a concurrent finding of fact and this Court is not required to upset the pure findings of fact.

6. For the reasons stated above, the writ petition is found to be devoid of merits and the same being bereft of any merit, deserves to be dismissed, which stands dismissed accordingly.