

(2013) 01 RAJ CK 0206
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4300 of 2007

Hari Kishan Sharma

APPELLANT

Vs

The State of Rajasthan and Another

RESPONDENT

Date of Decision : 23-01-2013

Acts Referred:

Citation : (2013) 2 WLN 175

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Advocate : R.S. Choudhary, for the Appellant; Meenu Purohit for the State, for the Respondent

Judgement

Nirmaljit Kaur, J.—Prayer in the present petition is for quashing of the order dt. 04.08.2005 (Annex. 4) vide which, penalty of withholding of one grade annual increment without cumulative effect has been imposed upon the petitioner. The petitioner was appointed on the post of Senior School Teacher (English) in the department on 10.10.1995. The result of the Senior Higher School of Art faculty remained 05.50% in the year 1999-00 and the result of Class 12th of English subject of Art faculty remained 05.05%. As such, the petitioner was issued charge-sheet dt. 24.7.2002. The petitioner duly filed his reply to the said charge-sheet. The respondent-Director while exercising his powers conferred under Rule 17 of the Rules of 1958 imposed the penalty on petitioner by withholding his one annual grade increment without cumulative effect vide order dt. 04.08.2005. The petitioner, being aggrieved with the order, has filed the present writ petition.

2. Reply has been filed. The facts are not disputed. However, the only ground taken is that the senior teacher is directly responsible for the result of his subject. As per Circular dt. 07.08.1998, the first selection grade is to be granted on completion of 10 years of satisfactory service and second selection grade is to be granted on completion of 18 years of service. In the present case, his selection grade had been deferred only by one year.

3. The allegation against the petitioner is only for the year 1999-00. There is no allegation of misconduct in service. Thus, the said charge on the face of it does not invite any penalty. This Court in the case of Dharamveer vs. State of Raj. & Ors., reported in 2005 (5) RDD 1219 (Raj.) almost in similar circumstances held in para 7 as under:-

The allegation levelled against the petitioner is that in the educational session of 1998-99, result of the students of the school where the petitioner was teaching in the subject of Science remained below the standard settled by the Education Department. In memorandum dt. 07.12.2000 issued by the Deputy Director, Secondary Education, Bikaner (Churu), it is nowhere stated that the result of the school in the specific subject remain below the standard settled by the Education Department due to slackness, carelessness or due to some act of commission or omission on the part of the petitioner. It is well settled that to constitute misconduct in a service, there must be commission or omission of some act on the part of the employee. Beside this, charge should be specific and must be without any ambiguity. The allegation of misconduct must be based on specific acts, deeds or omission of the employee. In absence of it, the charge shall be vague. The charge levelled against the petitioner is not at all specific, as such the same is vague.

4. There is no allegation in the present case that the said result was on account of the commission or omission on the part of the petitioner. The bad result may be on account of various reasons. The teacher alone cannot be held responsible. Thus, this Court feels that the impugned order dt. 04.08.2005 being arbitrary and bad in the eye of law deserves to be quashed. In view of the above, the writ petition is allowed. The respondents are directed to grant the benefit of first selection scale to the petitioner accordingly.