
(2015) 02 RAJ CK 0279
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6388 of 2014

Jagraj Singh

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 18-02-2015

Acts Referred:

Prevention of Corruption Act, 1988 — Section 13(1)(d), 13(2), 7

Citation : (2015) 4 CDR 2057 : (2015) 3 RLW 2085 : (2015) 3 SCT 419

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Advocate : V.K. Mathur and Anirudh Purohit, for the Appellant; B.L. Bhati, Govt. Counsel, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Nirmaljit Kaur, J—The petitioner was working as Additional Block Elementary Education Officer at Hanumangarh. A complaint was filed on 21.10.2013, in pursuance to which, an F.I.R. was registered against the petitioner for the offences under Sections 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988. In the said F.I.R., the complainant made allegations of having accepted illegal gratification by the petitioner. In consequence of the F.I.R., the petitioner was placed under suspension by the respondent No. 3 vide Order dated 06-07.11.2013. Aggrieved, the petitioner filed an appeal before the appellate authority i.e. respondent No. 1 under Rule 22 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958. The petitioner inquired about the fate of his appeal dated 24.04.2014 but he was not given any satisfactory answer. Thereafter, the petitioner received a Letter dated 19.05.2014 under the signature of the respondent No. 2 stating that his appeal cannot be decided in view of the Circulars dated 07.07.2010 and 12.01.2001. The petitioner was not able to find any circular dated 12.01.2001 issued by the Administrative Reforms Department of the State Government as referred in the impugned Order dated 19.05.2014 vide which the Joint Secretary to the Government, Department

of Education (Group-2) had refused to decide the pending appeal of the petitioner under Rule 22 of the C.C.A. Rules, 1958 on merits while relying on the aforesaid Circular dated 12.01.2001 besides the Circular dated 07.07.2010. Reply has been filed. As per the reply, the date mentioned in the Order dtd. 19.5.2014 is incorrect and the actual date of the said circular is 12.1.2011.

2. Learned counsel for the petitioner while praying for setting aside the impugned order, while raising other arguments inter-alia also contended that the very mentioning of the wrong date in the order impugned has made him suffer for almost eight months. The petitioner was not able to find the Circular dated 12.01.2001 to enable him to file the present writ petition. Even, after filing the present writ petition, he was directed by this Court to place the same on record, which he has not been able to do so till date.

3. Be that as it may, the question is as to whether the respondents could refuse to decide the statutory appeal provided under the rules.

Rule 22 of the CCA. Rules, 1958 reads as under:--

"Rule 22. - Appeals against orders of suspension:--A Government Servant may appeal against an order of suspension to the authority to which the authority which made or is deemed to have made the order, is immediately subordinate."

4. A perusal of the above rule shows that a statutory appeal has been provided under the rules. Moreover, the consideration of the appeals is dealt with in Rule 30(1) of the CCA. Rules, 1958, which reads:--

"Rule 30. - Consideration of Appeals:--

(1) In the case of appeals against an order of suspension, the appellate authority shall consider whether in the light of the provisions of Rule 13 and having regard to the circumstances of the case the order of suspension is justified or not and confirm or revoke the order accordingly."

5. In the above rule, the work used is "shall consider" making it incumbent upon the appellate authority to decide the appeal against the order of suspension. After considering, it can either revoke or confirm the order of suspension but under no circumstances refuse to decide the appeal.

6. On the other hand, a perusal of the Circulars dated 12.01.2011 and 07.07.2010 shows that the same deal only with cases wherein a challan has not been filed till three years or in case, one year has passed after the filling of the challan. A perusal of both the circulars does not in any way specify that the case of a suspended employee cannot be considered before three years. There is no bar for filing the appeal prior to three years. In fact, a perusal of the above rules shows that there is no time limit provided for filing the said appeal and the same can always be filed immediately after the order of suspension is passed. Thereafter, the appeal has to be decided on merits after considering the objections and arguments raised by the suspended employee. In fact, the

circulars give a right to even those cases to be reviewed after a lapse of three years, whose appeals against suspension order may have already been rejected. The committee is required to review the suspension order taking into consideration the long period of suspension having undergone by an employee with the final outcome of the F.I.R. still very far off and not anywhere being finalized in the near future. The said circulars are, in fact, complimentary to the rules and in no way to deprive the right granted to a suspended employee under the said rules to hear his appeal. In view of the above, the present writ petition is disposed of with a direction to the petitioner to appear before the appellate authority along with certified copy of the order on 27.2.2015 at 4.00 p.m., who shall decide the appeal of the petitioner within a period of one month therefrom in accordance with law.