
(1985) 11 RAJ CK 0006
In the Rajasthan High Court
Case No : Civil Petition No. 2036 of 1983

Jeet Mal Pau

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 21-11-1985

Acts Referred:

Citation : (1985) WLN 533

Hon'ble Judges : A.K. Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ashok Kumar Mathur, J.—The petitioner by this writ petition has challenged the order dated 16th November, 1979 (Exbt. 16) and the orders dated 9th April, 1980 and 10th June, 1983 Exbts. 21 and 20 respectively, whereby the order of termination Exbt. 16 was upheld by the Chief Engineer on appeal.

2. The petitioner joined the service of the Rajasthan Government on the post of Truck driver on 1st January, 1956 in the PWD (B & R), Jodhpur. Thereafter the petitioner was posted as Mechanic-cum-Driver on 1st February, 1960 and from 1st April, 1962 he was fixed in the grade of Mechanic Grade II. Thereafter the petitioner was promoted to the post of Mechanic Grade-I with effect from 2nd April, 1965. On 1st October, 1969 the petitioner was promoted on the post of Senior Foreman. On 29th May, 1971 the petitioner was promoted as Mechanical Supervisor.

3. The petitioner continued to serve the PWD for more than 10 years and claimed to all the benefits like contributory provident fund or the pensionary benefits. The petitioner was served with the charge sheet on 23rd August, 1977 in which certain charges were levelled against the petitioner. Thereafter a departmental enquiry was also followed. The enquiry officer submitted his report Exbt. 12 and the petitioner was given a show cause notice on 8th May, 1979 by the disciplinary authority-cum Superintending Engineer (I) PWD (B&R), Jodhpur

proposing a tentative punishment of removal from service vide Exbt. 13. The petitioner filed a reply to show cause notice on 20th May, 1979 and 20th September, 1979, copies thereof are submitted with the writ petition as Exbts. 14 and 15 respectively. The Disciplinary Authority after perusing the reply and the enquiry report passed the order of removal of the petitioner from service vide order dated 16th November, 1979. Aggrieved against this the petitioner preferred a departmental appeal on 29th November, 1979 against the order of his removal. The petitioner repeatedly requested from time to time to the departmental authorities to dispose of his appeal but without any result. Ultimately the petitioner tiled a writ petition in the High Court which was came to be registered as S.B. Civil Writ Petition No. 2233 of 1982 and decided on 10th December, 1982. A direction was given by this Court in the aforesaid Writ petition that the petitioner's departmental appeal should be decided expeditiously. The decision of the appeal was communicated to the petitioner on 23rd June, 1983. It is this disposal of the appeal the petitioner has sought to challenge by filing the present writ petition.

4. Mr. Mridul, learned counsel for the petitioner submits that the order Exbt. 16 is absolutely laconic order and it does not disclose the application of mind at all. The authority has not passed a detailed speaking order. Thus it is apparent that the order of removal is absolutely mechanical and without application of mind. It has also been brought to my notice that in the Work Charged Rules no appeal lies to the higher authorities and curiously enough nobody brought this fact to the notice of this court while giving order in the first writ petition filed by the petitioner. Therefore a direction was issued to dispose of the so called appeal filed by the petitioner. It is also very curious to note that the so called appeal filed by the petitioner was disposed of by the Chief Engineer but no step was taken to communicate the decision till 23rd June, 1983. In the order Exbt. 21 dated 9h April, 1980 it has been mentioned that no appeal lies in the Workcharged Service Rules as well as in the rules appended to the industrial Employment (Standing Orders) Act, 1946. Inspite of this the petitioner was not informed and this Court was also not informed about this position. Be that as it may now the question is whether Exbt. 16 can be sustained or not. A perusal of the order Exbt. 16 clearly shows that the authority has not passed a proper speaking order showing the application of mind. It is expected of the authorities that while removing a parson from the service after enquiry at least they should a pass detailed speaking order that they have taken into consideration the contentions raised by the delinquent and after properly considering and disposing of all these objections a final order should be passed but in the present case nothing has been done except to reproduce the facts. Neither it has been shown that what are the depositions of the witnesses and nor it has been taken into consideration the grounds raised by the delinquent. This order is absolutely laconic and deserves to be quashed. So far as the appellate order is concerned the authorities have themselves pointed out that no such appeal lies in the Workcharged Service Rules. Thus both appellate orders have to be ignored.

5. In the result, I allow the writ petition and quash the order Exbt. 16. Now the question is whether the petitioner should be allowed back wages or not. In view of the peculiar circumstances of this case that the petitioner was charged with the charge of pilfering certain machinery parts from the Work shop, therefore, I am not persuaded to allow premium to such persons to allow back wages by this court. However in case the petitioner is exonerated of all these charges he shall be entitled to all the benefits from the date of removal from service.

6. Thus, in the result I allow this writ petition and quash the order Exbt. 16 and direct the respondent disciplinary authority to hear the petitioner and pass a proper speaking order within a month from today. The petitioner shall appear before the respondent on 14th December, 1985, No order as to costs.