
(2015) 02 RAJ CK 0005
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4588/2001

Jugal Kishore Mathur

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 12-02-2015

Acts Referred:

Citation : (2015) 02 RAJ CK 0005

Hon'ble Judges : Sandeep Mehta, J.

Bench : Single Bench

Advocate : M.R. Singhvi, Senior Advocate assisted by Bhavesh Sharma, for the Appellant; Kusum Rao, A.G.C., Advocates for the Respondent

Final Decision : Dismissed

Judgement

Sandeep Mehta, J.—By way of the instant writ petition, a challenge is laid to the order (Annex. 31) dated 21.8.1998 whereby the petitioner Jugal Kishore Mathur, a former RAS Officer in the State of Rajasthan, was removed from service and the order (Annex. 35) dated 3.4.2001 whereby the review application preferred by Shri Jugal Kishore Mathur was dismissed.

2. It may be noted at the outset that Shri Jugal Kishore Mathur passed away during the pendency of the writ petition and thus his legal representatives were brought on record and have been permitted to pursue the instant writ petition.

3. Assailing the validity and legality of the orders under challenge, learned counsel for the petitioner Shri M. R. Singhvi Sr. Advocate assisted by Shri Bhavesh Sharma, Advocate contends that the petitioner has been made a scapegoat in the case. He submits that the so-called irregularities in the selection process were perpetuated at the instance of Shanta Vyas, Dy. Secretary in the Gramin Vikas and Panchayati Raj Department at Bikaner and the responsibility thereof was fixed solely on the petitioner without any justification whatsoever. It is thus contended that the impugned order whereby the petitioner was removed from service deserves to be quashed. An alternative submission has been made

that the punishment of removal awarded to the petitioner is disproportionate to the delinquency alleged and thus the punishment deserves to be reduced as no appropriate reasons were assigned by the disciplinary authority while imposing the extreme penalty upon the petitioner.

4. Per contra, Ms. Kusum Rao, learned AGC, appearing for the respondent State contends that a thorough and detailed preliminary inquiry was conducted, which resulted into the charge-sheet served to the petitioner. An inquiry officer was appointed to conduct the inquiry. The inquiry was conducted strictly in accordance with the procedure laid down in the CCA Rules. Number of witnesses were examined and the inquiry officer found all the charges proved against the petitioner beyond all manner of doubt. There were grave allegations against the petitioner of tampering with the record of the selection process, acting with partiality and even issuing a supplementary merit list thereby facilitating appointment of 7 such candidates, whose names even did not appear in the merit list. She thus, submits that the impugned order imposing penalty of removal from service upon the petitioner is just and proper and does not call for any interference. She relies on the decision rendered by the Hon'ble Supreme Court in the case of State of U.P. and others Vs. Nand Kishore Shukla and another, and contends that even if one of the charges is proved and is sufficient for imposing penalty, the Court will be loath to interfere with that part of the order. She thus contends that the writ petition deserves to be dismissed.

5. Heard and considered the arguments advanced by the learned counsel for the parties and perused the material available on record as well as the impugned orders.

6. The petitioner was a RAS Officer at the relevant point of time and was posted as the Secretary of the Zila Parishad Bikaner. The selection process for four categories of teachers was initiated by the Zila Parishad and the petitioner being its Secretary was the person principally incharge of the whole process. He was also a member of the interview committee. Grave allegations were levelled against the petitioner regarding deliberately omitting to fill the register of the marks awarded during interviews, avoiding to grant marks on his behalf to the candidates and keeping the possibilities open for a later interpolation and a specific charge of preparing a supplementary list in order to facilitate appointment of 11 candidates whose names did not even appear in the main merit list thereby facilitating appointments of non-meritorious candidates. The argument advanced by the learned counsel for the petitioner that all the members of the selection committee were equally responsible for the fraud perpetrated in the case cannot be accepted on the face of the record. The witnesses Shabdsharan Sharma, the Dy. District Education Officer and Ramesh Dutt Dube, the Additional District Collector (Admn.), Bikaner, who were the members of the interview committee and were examined during the inquiry, have clearly alleged that all the documents were handed over to the petitioner after holding the interviews and the remaining job of preparing the merit list was

conducted by the Zila Parishad. It is not in dispute that wholesale illegalities and irregularities were committed while preparing the merit list particularly in relation to assigning the marks of interviews. There are explicit allegations against the petitioner supported by evidence that he initially did not accord his own quota of marks in the interview-sheet and thereafter, in order to give benefit to certain non-meritorious candidates, gave the excessive marks in his quota. The interview result-sheet was in the petitioner's exclusive possession and was filled fraudulently. Smt. Shanta Vyas, the Dy. Director, who conducted the preliminary inquiry in the matter found that the petitioner was responsible for committing wholesale bungling and fraud in the selection process, which was tainted with partiality and favouritism. In the cross-examination conducted on behalf of the witness, the petitioner himself suggested to the witness that non-preparation of the merit list and of failing to offer appointments by adhering to the merit list amounted to irregularity. In the opinion of this Court, the gravest allegation against the petitioner was the last charge wherein, it was alleged that the petitioner issued a supplementary list whereby 11 candidates, whose names did not figure in the main merit list were given appointments. The petitioner did not dispute this fact but took a stand that he simply submitted a proposal of preparing a supplementary list to the Zila Pramukh, who approved the proposal whereupon a supplementary list of 11 candidates was issued and they were given appointments subsequently. The petitioner being a RAS officer, it was expected of him to act with fairness and transparency. Mere attempt to shift the burden on to the Zila Pramukh, who is a political entity is no defence at all. The very fact that the petitioner himself prepared a supplementary list of candidates, whose names did not figure in the merit list and thereafter, managed to procure the seal of approval from the Zila Pramukh establishes a case of fraudulent action to the hilt against the petitioner. He managed appointments for non-meritorious candidates without getting approval of the remaining members of the establishment/selection committee. This fact in itself is sufficient to prove that the petitioner was the perpetrator behind the whole fraud.

7. In view of the above discussion, this Court is of the firm opinion that the disciplinary authority rightly found the charges established and proved against the petitioner. The learned senior counsel vehemently tried to impress upon this Court that a number of writ petitions were preferred by various candidates in this Court and the State Government approved the selection process in those writ petitions. The argument is fallacious on the face of record. In para No. 7 of the instant writ petition itself, it has been mentioned that the State Government after holding a preliminary inquiry, took a decision on 8.3.1990 whereby the selection process was cancelled as being fraudulent.

8. The argument advanced by the learned counsel for the petitioner that the order passed on the review application preferred by the petitioner was laconic and was passed without application of mind to the facts of the case is also untenable for the reason that the order clearly reflects that each and every ground raised by the petitioner in his review application was referred to,

considered and dealt with by the reviewing authority before rejecting the review application.

9. Coming to the question of quantum of punishment, this Court is of the opinion that the fact that the petitioner being a RAS Officer indulged in wholesale fraud in the selection in order to deprive genuine candidates from being appointed as teachers, is in itself sufficient to affirm the disciplinary authority's order directing petitioner's removal from service. Looking to the gravity of the allegations, had the disciplinary authority given any other punishment, it would have been shocking to conscience of the Court.

10. As a result of the aforesaid discussion, the writ petition being devoid of any merit is hereby rejected.

11. No order as to costs.