
(2013) 05 RAJ CK 0169
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4113 of 2010

Kishan Lal Meghwal

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 23-05-2013

Acts Referred:

Citation : (2013) 4 WLN 419

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Advocate : Nupur Bhati, for the Appellant; Meenu Purohit, on behalf of Dr. G.R. Kalla, for the Respondent

Final Decision : Allowed

Judgement

Govind Mathur, J.—The petitioner entered in the service of the respondents being appointed as Laboratory Assistant on 02.07.1985. By an order dt. 31.10.1987, the District Education Officer (Woman), Udaipur placed the petitioner under suspension as he remained behind the bars for a term of more than 48 hours. The petitioner was tried by a competent Court of criminal jurisdiction relating to a case for the offences punishable under Sec. 420, 468 and 471 IPC. By the judgment dt. 12.04.2002, he was acquitted from the charges referred above. Suffice to mention here that for the charges for which the petitioner was tried by the Court of criminal jurisdiction, the petitioner was also subjected to disciplinary action under a memorandum dt. 04.11.1987 issued by the disciplinary authority exercising powers under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short, hereinafter referred to as "the Rules of 1958"). The petitioner while facing the disciplinary action, on being acquitted by the Court in the criminal case made a representation to the respondents to revoke the suspension made under the order dt. 31.10.1987. No positive action was taken by the respondents, thus, a petition for writ being S.B. Civil Writ Petition No. 1005/2006 was filed by the petitioner before this Court and that came to be accepted vide an order dt. 20.05.2008 with a direction to the

respondents for revoking the order of suspension. In pursuant to the direction aforesaid, the District Education Officer (Secondary-I), Udaipur revoked the suspension of the petitioner under an order dt. 06.03.2009. The petitioner after revocation of suspension is continuously working with the respondents as Laboratory Assistant. In this petition for writ, his grievance is that the respondents while revoking suspension have not allowed annual grade increments to the petitioner and also not considered his case for promotion or for grant of selection grades in lieu thereof.

2. A reply to the writ petition has been filed on behalf of the respondents with assertion that no explanation is submitted by the petitioner pertaining to the allegations levelled against him under the memorandum dt. 04.11.1987 issued by the disciplinary authority as per the provisions of Rule 16 of the Rules of 1958 and that is the reason the disciplinary proceedings are yet pending and during pendency of enquiry no increments could have been given.

3. Heard learned counsel for the parties.

4. The facts admitted are that the petitioner entered in service of the respondents on 02.07.1985 and was placed under suspension on 31.10.1987. He was tried by the competent Court of criminal jurisdiction for the offences punishable under Sec. 420, 468 and 471 IPC and was acquitted therefrom. His suspension was revoked under an order dt. 06.03.2009 in pursuant to the directions given by this Court. After revocation of suspension, the petitioner's pay has been fixed in the pay scale applicable for the post of Laboratory Assistant, but no annual grade increments and other service benefits like consideration for promotion or grant of selection grades in lieu thereof are given.

5. The annual grade increments for which an employee is otherwise entitled to have in ordinary course by force of Rule 29 of the Rajasthan Service Rules 1951 (for short, hereinafter referred to as "the Rules of 1951") cannot be detained without adhering the procedure given under the Rules of 1958. Mere pendency of disciplinary proceedings cannot be a reason to deny annual grade increments. In the case in hand, the situation is all the more serious in view of the fact that a charge-sheet was served upon the petitioner in the month of November 1987, but till now no decision has been taken by the respondents even for initiating disciplinary action by appointing an enquiry officer. The petitioner may have not tendered his explanation in response to the memorandum dt. 04.11.1987, but that in no manner prevents the respondents from proceeding against him with enquiry. In the event of non-submission of explanation, the respondents could have appointed an enquiry officer to enquire into the allegations, but no such action is yet taken. Keeping the disciplinary proceedings pending for such a long period, as a matter of fact, is highly unjust and arbitrary, especially looking to the fact that for the same charges, the petitioner has already been acquitted by the competent Court of criminal jurisdiction. Having considered all these facts of the case, I deem it appropriate to accept this petition for writ by directing the respondents to make fixation of the petitioner in the pay scale applicable to the

post of Laboratory Assistant and further to allow him all annual grade increments for which he is otherwise entitled as per Rule 29 of the Rules of 1951. The case of the petitioner for grant of pay and anything beyond the subsistence allowance for the period he remained under suspension is required to be settled by the respondents as per Rule 54 of the Rules of 1951. No challenge is given in this petition for writ to the disciplinary proceedings pending against the petitioner, however, looking to all the facts of the case, I deem it appropriate to direct the respondents to complete the disciplinary proceedings expeditiously as far as possible within a period of one year from today.