
(2013) 05 RAJ CK 0219
In the Rajasthan High Court
Case No : Civil Writ Petition No. 7132 of 2011

Kishna Ram Vishnoi

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 13-05-2013

Acts Referred:

Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 — Rule 17

Citation : (2013) 4 WLN 29

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Advocate : Mahesh Bora, Assisted by Mr. Arun Kumar, for the Appellant; Meenu Purohit, On Behalf of Dr. G.R. Kalla, for the Respondent

Final Decision : Allowed

Judgement

Govind Mathur, J.—This petition for writ is preferred to question correctness of the order dt. 28.07.2011 passed by the District Education Officer (Secondary, Jalore placing the petitioner under suspension. As per the petitioner, he was transferred from one school to another in district Jalore under an order dt. 10.06.2008 and validity of the same was questioned by way of filing an appeal as per the provisions of the Rajasthan Civil Services (Service Matter) Appellate Tribunal Act, 1976. The Tribunal stayed the operation of the order of transfer, however, instead of giving effect to that in true spirit the petitioner was kept awaiting posting orders under an order dt. 02.05.2011. He then was permitted to join duty at Government Senior Secondary School, Raniwada, Jalore after receiving certain instructions from the Commissionerate of Education. On 28.07.2011, necessary compliance of the interim direction given by the Tribunal was made, however, on the same day, the order impugned was passed and the petitioner was placed under suspension. A challenge to the aforesaid is given on several counts including that the author of the order is not competent to place the petitioner under suspension neither being is appointing authority nor an authority to whom his appointing authority is subordinate. This Court on

26.08.2011 after hearing counsel for the parties stayed effect and operation of the order dt. 28.07.2011. A reply to the writ petition thereafter was filed with assertion that on 28.07.2011 itself disciplinary action was initiated by the Deputy Director (Secondary), Department of Education, Jodhpur by a memorandum dt. 28.07.2011 exercising powers under Rule 17 of the Rajasthan Civil Service (Classification, Control and Appeal) Rules, 1958 (for short, hereinafter referred to as "the Rules of 1958"). The memorandum aforesaid is available on record as Annex. R/1.

2. In view of the facts noticed above, the admitted position that emerges is:-

1. The petitioner was transferred from one school to another in the year 2008;
2. A challenge was given by the petitioner to the order of transfer and operation thereof was stayed by the Tribunal;
3. The interim order passed by the Tribunal was not complied with till 28.07.2011;
4. The day on which steps were taken for making compliance of the order passed by the Tribunal, the petitioner was placed under suspension;
5. The author of the order placing the petitioner under suspension is neither his appointing authority nor an authority to whom the appointing authority is subordinate; and
6. The disciplinary action taken is only for imposing a minor punishment after holding proceedings under Rule 17 of the Rules of 1958.

3. Having considered this factual position and especially looking to the fact that the petitioner is subjected to disciplinary proceedings only under Rule 17 of the Rules of 1958, prima facie I am of the view that in such matters, suspension is not warranted.

4. Be that as it may, no effect has been given to the order of suspension in view of the interim order passed by this Court on 26.08.2011. The reasons and the administrative exigency, if any, existing while placing the petitioner under suspension must not be existing now, specially looking to the fact that no effect is given to the suspension so far. As such, I don't find any just reason to continue the order of suspension. Accordingly, this petition for writ is allowed. The order dt 28.07.2011 passed by the District Education Officer (Secondary), Jalore is quashed. Expeditious disposal of the enquiry pending against the petitioner under Rule 17 of the Rules of 1958 is desirable.