
(2010) 01 RAJ CK 0071
In the Rajasthan High Court

Madan Lal Sen

APPELLANT

Vs

The State of Rajasthan and Another

RESPONDENT

Date of Decision : 11-01-2010

Acts Referred:

Citation : (2010) 01 RAJ CK 0071

Hon'ble Judges : P.C. Tatia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prakash Tatia, J.—Heard learned Counsel for the petitioner.

2. The petitioner who was serving as Constable, remained absent from duty on 19.6.2007 without prior leave or information and the charge was framed against the petitioner that because of his absence, one accused, who was sent to the Court with some other constables, ran away. However, the substantial charge against the petitioner is that he remained absent from duty.

3. It is not in dispute that the petitioner was not on duty on 19.6.2007 and continued to remain absent upto 22.8.2007. The petitioner took the plea in the departmental enquiry that because of the profuse vomiting of his wife with blood, he after information on telephone left the place of duty and thereafter because of his own sickness, he remained absent from 7.7.2007 to 25.7.2007 and thereafter, because of the sickness his children, he could not report on duty from 26.7.2007 to 22.8.2007. The defence taken by the petitioner was not accepted by the disciplinary authority and the appellate authority and the petitioner was punished with stoppage of two annual grade increments without any future effect. The petitioner's leave from 7.7.2007 to 25.7.2007 was sanctioned on medical ground. However, the leave from 19.6.2007 to 6.7.2007 and 26.7.2007 to 22.8.2007 was declared leave without pay.

4. Learned Counsel for the petitioner submits that the petitioner has wrongly been punished for the charge as he is not responsible for absconding the accused

as other constables were responsible to take accused to the Court and bringing back to the jail. It is also submitted that the petitioner's appeal was not considered in the light of Rule 30 of the Rules of 1958.

5. In fact, the petitioner is not in a position to dispute that he was not on duty. His plea that he informed on telephone that he had to go immediately because of his wife's sickness is a question of fact and that was not accepted by both the authorities below and this Court is not inclined to re-examine this aspect of the petitioner's plea. The petitioner's document Annex. A/5 itself shows that he submitted medical prescriptions of his wife, of his own and of his children. That evidence has not been accepted by the two authorities below. I do not find that the two authorities below have committed any illegality in passing the impugned orders.

6. In view of the above, this writ petition, having no merits, is hereby dismissed.