
(2001) 07 RAJ CK 0043

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3746 of 1993

Maharaj Prasad Agrawal

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 27-07-2001

Acts Referred:

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

Citation : (2002) 1 RLW 513 : (2001) 3 WLN 661

Hon'ble Judges : J.C. Verma, J

Bench : Single Bench

Advocate : J.K. Singhi, for the Appellant; N.K. Maloo, for the Respondent

Final Decision : Allowed

Judgement

Verma, J.—The petitioner while working as Engineering Subordinate at Kama in the year 1976 was served with a charge- sheet under Rule 16 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1956 (here-in-after referred to as the Rules) on 18.5.1976 on the allegations mentioned therein. There were total 10 persons who were issued the identical charge-sheet. On 11.3.1986, the petitioner and other persons were punished by stoppage of two grade increments with cumulative effect by converting the charge-sheet under Rule 17 of the Rules for imposing minor punishment. This action was challenged by the petitioner in writ petition No. 2137/87 and the order was set aside. He was served another charge-sheet identical to the previous one on 9.12.1988 under Rule 17 of the Rules vide Annexure-1 which was replied to. He was punished on 27.2.1993 with a punishment of stoppage of one grade increment, without cumulative effect vide Annexure-5. The incident related to the year 1969-70, whereas the charge-sheet is said to have been given after a period of 18 years in the year 1988. The petitioner challenges the order Annexure-5 dated 27.2.1993 on the ground that it is not a speaking order and no reasons have been given. It is also one of the grounds that the other co-accused persons have been either given the less punishment or even have been exonerated on the appeal having

been filed. Example of one Jagdish Gehlot has been so cited. It is further submitted that the findings are perverse on the grounds that it was admitted fact that it was difficult to make the measurement in the circumstances and there was likelihood of small mistakes in measurements".

2. Per contra in the reply it is submitted that it is not necessary to give reasons in the order as the purposes are required to be given only to commensurate with the quantum of punishment. It is further submitted that it is not at all necessary to give reasoned order for the slightest punishment.

3. The petitioner had submitted a very detailed reply. Annexure-5 admittedly is not a speaking order. It is also admitted that the enquiry was joint, charge-sheet was also joint in regard to number of other employees concerning the same incident and for the reason that other persons on the same charges have been exonerated. According to the petitioner he was entitled to the same benefit.

4. Reliance is placed on the Judgment of this court in the case of Subhash Chand Nagaich v. State of Rajasthan (1), relating to the same charge-sheet as mentioned in the present case wherein it was observed that the appeal of R.B. Sharma and other subordinate engineers involved in the same charge-sheet was accepted and similar was the case in regard to O.P. Yadav who was not proceeded with. It was further submitted that in the above said writ petition of Subhash Chand Nagaich, writ petition was accepted on the ground that the charge-sheet had been issued after lapse of 16 years or so.

5. Reliance is also placed in the case of Ajeet Raj Mehla v. State of Rajasthan (2), who was also involved in the same charge-sheet. Number of persons similarly situated as petitioner were found guilty. They were given the similar punishment as well. It was held that the petitioner in Ajeet Raj Mehta's case was entitled to the same treatment because of identical nature of charges and statement of allegations cast against other persons were not found correct and they were not held guilty.

6. For the above-said discussion and reasons, I allow the writ petition holding that the joint enquiry on the same and identical charges and allegations, if number of other persons have been held to be not guilty which form part of the same transaction, the petitioner is also entitled to the same benefit coupled with the fact that for the alleged incident of the year 1969-70, it shall not be appropriate to have taken the matter in the year 1988 by issuing a fresh charge-sheet and punishment in the year 1993. Apart from above, Annexure-5 impugned order is not a speaking order. Even though the punishment is minor with stoppage of one grade increment without cumulative effect, but it does involve the civil consequences of the petitioner and the petitioner has a right to know the working of the mind of the competent authority who is supposed to pass a reasoned order by meeting the defence taken by the delinquent official in his reply to the charge-sheet which has not been done in the present case.

7. The writ petition is allowed. Order Annexure-5 is quashed. The petitioner shall

be entitled to all consequential benefits which might have accrued to him, had the order Annexure-5 not been passed. No costs.