
(1994) 01 RAJ CK 0047
In the Rajasthan High Court
Case No : Civil Writ Petition No. 370 of 1994

Naresh Kamal Sharma

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 24-01-1994

Acts Referred:

Citation : (1994) 1 WLN 59

Hon'ble Judges : B.R. Arora, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.R. Arora, J.—The petitioner, by this writ petition, has proved that the charge-sheet Annexure.6, served upon the petitioner on 20-3-92, may be quashed and the enquiry initiated against the petitioner, may be dropped.

2. The petitioner is working as Senior Assistant Malaria Officer at Ganganagar. A charge-sheet date 27-2-92 (Annexure.6) under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958, was served upon the petitioner, by which he was asked to make, a representation within twenty-one Days from the date of the charge-sheet and plead his case. This charge-sheet was served upon the petitioner on 20-3-93. The petitioner filed a representation and, also, made a request to the respondents for providing him an opportunity of personal hearing and, also, for the supply of the copies of certain documents including the copy of the preliminary inquiry report. The petition was afforded the opportunity of personal hearing and to inspect the record but the petitioner did not inspect the record and fill in the present writ petition questioning he validity of the charge-sheet.

3. It is contended by the learned Counsel for the petitioner that the charge of misappropriation, leveled against the petitioner, is wholly unfounded and based on misconception. Even the sum of Rs. 310/- for which the petitioner has been charge-sheeted, has not been paid to him. The charge-sheet has, also, been

challenged on the ground that earlier, also, preliminary enquiry was conducted by the Additional Director, Medical and Health Services, and, therefore, the Chief Medical and Health Officer cannot hold the enquiry against the petitioner on the same charges. It is further contended by the learned Counsel for the petitioner that the copy of the enquiry report has not been supplied to the petitioner and, therefore, the enquiry cannot be initiated against the petitioner and the charge-sheet, therefore, deserves to be quashed. Lastly, it is contended by the learned Counsel for the petitioner that the charge-sheet has been served upon the petitioner after lapse of ten years and, therefore, no enquiry can be initiated against the petitioner.

4. I have considered the submissions made by the learned Counsel for the petitioner.

5. The petitioner has been served with the charge-sheet in the year 1992. He may file a representation before the Enquiry Officer and satisfy that the charges are not proved against him and produce all there relevant documents and material before him in support of his contentions. From the material produced before this Court, it cannot be said that prima facie no case for serving the charge-sheet is made out against the petitioner. Prima facie case for proceeding in an enquiry against the petitioner has been made put and the service of the charge-sheet cannot be said to be without jurisdiction and it cannot be said to have been based on no material. The petitioner may file the relevant material before the Enquiry Officer and satisfy him and if no charges are proved against the petitioner then the charges will be quashed.

6. So far as supply of the copy of the preliminary enquiry report and other documents and giving the opportunity of personal hearing are concerned, the petitioner was given the opportunity of personal hearing and he was, also, allowed to inspect the record of the case. Copies of all the record of the preliminary enquiry cannot be supplied to the delinquent officer. If he wants the copies of the same, he can inspect the record and copy it out from the record. The petitioner has already been given time to inspect the record. The time was fixed and he was asked to appear on that day for inspection of the record but he did not appear on that day. The petitioner, if so likes, may approach the respondents for inspection of the record and file his representation to the charges.

7. The next contention, raised by the learned Counsel for the petitioner, is that the preliminary enquiry was conducted by the higher officer and, therefore, the junior officer, i.e. the Chief Medical and Health Officer, cannot be appointed as the Enquiry Officer in the present case. The contention, raised by the learned Counsel for the petitioner on this count, is also, devoid of any force. The Joint Director, Medical and Health Services conducted the preliminary enquiry. The object preliminary enquiry is to decide: whether a disciplinary action should be taken against the delinquent officer or not and not for any other purpose. This preliminary enquiry did not result in exoneration or any punishment but it merely

decided the preliminary issue whether a disciplinary enquiry may be initiated against the delinquent officer or not, and its purpose was only to see whether a prima facie case exists for issuing a Charge-sheet calling the delinquent officer to explain the charges leveled against him. As the enquiry was held only for the purpose to decide: whether an action may be taken against the petitioner or not, and, therefore, even if it was not conducted by some Senior Officer still that will not affect the enquiry at all because ultimately after holding the enquiry whether the delinquent officer is guilty or not, the matter has to be decided by the Disciplinary Authority and not by the Enquiry Officer, i.e., the Chief Medical and Health Officer. Thus, holding of preliminary enquiry by the Senior Officer will not affect the holding of enquiry by the Enquiry Officer, i.e., the Chief Medical and Health Officer. While conducting the preliminary enquiry, the petitioner was given an opportunity to represent his case.

8. Lastly, it is contended by the learned for the petitioner that the charge-sheet has been served upon the petitioner after a lapse of ten years. The matter was enquired into, even as per the case of the petitioner, twice and he was given opportunity of personal hearing and after the preliminary enquiry, the authority thought it proper to initiate an enquiry against the petitioner. This action of the respondents, therefore, cannot be said to be illegal. The delay in serving the charge-sheet has not occurred on account of any negligence or slackness on the part of the respondents. Moreover, the charge-sheet was served upon the petitioner in the month of February, 1992, and the petitioner did not cooperate in the matter and on one pretext or the other tried to delay the proceedings. Even otherwise the delay has not prejudiced the case of the petitioner in the enquiry.

9. In this view of the matter, I do not find any merit in this writ petition and the same is hereby dismissed.