
(2011) 02 RAJ CK 0051

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3995 of 2010

Poonam Chand Patwari

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 07-02-2011

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 16
Constitution of India, 1950 — Article 226, 227, 311
Rajasthan Civil Services (Pension) Rules, 1996 — Rule 53(1)

Citation : (2011) 02 RAJ CK 0051

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Govind Mathur, J.—This petition for writ is preferred to question validity, correctness and propriety of judgment dated 04.1.2010 passed by Rajasthan Civil Services Appellate Tribunal, Jaipur.

2. The factual matrix necessary to be noticed is that the Petitioner, a Patwari entered in the services of the Respondents in the year 1978. The competent authority while exercising the powers under Rule 53(1) of Rajasthan Civil Service (Pension) Rules, 1996 retired him compulsorily under the order dated 05.12.2000. Being aggrieved by the same, he preferred an appeal before the Rajasthan Civil Services Appellate Tribunal, Jaipur and that came to be rejected on 04.1.2010.

3. It is submitted by learned Counsel for the Petitioner that the Tribunal failed to appreciate that the competent authority while exercising the powers under Rule 53(1) of Rajasthan Civil Service (Pension) Rules, 1996 has not recorded its satisfaction, as held mandatory by this Court in L Rs of late Shri Pukhraj Gehlot v. The Rajasthan Civil Services Appellate Tribunal, Jodhpur and Ors. 2007(2) RLW 1204.

4. I have considered the arguments advanced and also perused the record.

5. The learned Tribunal while examining the case of Petitioner had gone through the entire service record and then gave a definite finding in the following terms:

Examining the instant case in the light of the above mentioned law on compulsory retirement we find no merit in the appeal. The plea of the Appellant that the impugned order is not a speaking order and that he was not given an opportunity of hearing before passing of the impugned order cannot be accepted in view of the law discussed above. The counsel for the Appellant did not argue on the vires of the Rule 53(1) of the Rules of 1996 and we too do not find that the said Rule is ultra vires the Article 311 of the Constitution of India. The counsel for the Appellant has also not been able to prove the constitution of the Screening or the Review Committee was illegal. Now the only plea of the Appellant that remains to be examined is that whether on the basis of the adversities the impugned order deserves to be quashed or not. The APAR for 1981- 1982 contains adverse entry of his being "late worker" that of 1986-1987 contains that he never completed his work in time and that he does the work only after repeated reminders. Similar is the entry in APAR of 1995-96. The entry in APAR for 1996-1997 states that he is in the habit of not staying in his headquarters, and that villagers complain about his being intoxicated. He made no efforts for recovery of land revenue. All the adverse entries were communicated to the Appellant and after examination of the representations against the entries they were retained. The proceedings of the Screening Committee and the Review Committee were perused and it was found that the Appellant was given written warning on being wilfully absent by order dated 20.08.81. He was penalised with stoppage of 1 grade increment each by orders dated 25.06.1997, 02.07.1997 and 17.03.1998 on delinquencies of not preparing record of land allotted to forest department and not doing survey work, showing negligence in preparing of record and not getting receipt books renewed as well as not preparing report in respect of cases pending in High Court and for not giving correct "Nishan delhi" to cultivators, being intoxicated and not doing duties respectively. He was censured by order dated 10.6.98 for remaining wilfully absent. He had been chargesheeted under 16 CCA Rules on 26.06.97 for demanding bribe. The Review Committee found that inspite of the adverse entries and the punishments the Appellant has shown no improvement. These punishments relate to the delinquencies committed from 1993 and afterwards. Hence, they are not of the remote part and have rightly been considered by the committees. Moreover the punishments speak of negligence towards duties, being intoxicated and in the habit of not performing his job unless several reminders are given. Such an employee, who also remains wilfully absent, cannot be retained in service as he can be termed as dead wood and said to have lost his utility.

6. So far as the law laid down by this Court in L Rs of late Shri Pukhraj Gehlot (supra) is concerned, suffice it to mention here that in the case aforesaid, this

Court examined the record and reached at the conclusion that the appointing authority nowhere recorded his satisfaction to reach at a definite conclusion warranting exercise of the powers under Rule 53(1) of the Rules of 1996, that is not the position in the present case. In the instant matter, the Tribunal has examined the record thoroughly and found that the competent authority on the basis of the available material rightly formed an opinion that the Petitioner has lost his utility for services. In such circumstance, I do not find any wrong with the order impugned that may warrant interference of this Court while exercising powers under Article 226 and 227 of the Constitution of India. The petition for writ is dismissed accordingly.