(2009) 05 RAJ CK 0080

In the Rajasthan High Court

Prathvi Raj Meena APPELLANT

Vs

State of Rajasthan and Others RESPONDENT

Date of Decision : 08-05-2009

Acts Referred:

Citation : (2009) 3 WLN 379

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

Bench : Single Bench

Final Decision : Allowed

Judgement

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

2. The petitioner was working as Asstt. Commercial Taxes Officer (Flying Squad), Makarana and one other officer Shri R.D. Singh was also holding the post of Asstt. Commercial Taxes Officer in Makarana itself. The petitioner''s office was inspected and then because of the delinquency, the petitioner was served with the charge-sheet under Rule 17 of the CCA Rules, 1958. Shri R.D. Singh was also served with the same charge-sheet with difference only of absence from duty of a different date. Rest of the charges are verbatim the same. The petitioner submitted reply to the charges, copy of which has been placed on record as Annex.2. The disciplinary authority rejected the petitioner''s contention by saying that petitioner did not produce any evidence and observed that from the record, the guilt of the petitioner has been proved. The exact verbatim same order was passed for Shri R.D. Singh by the disciplinary authority. The petitioner being aggrieved against the order of the disciplinary authority dt. 10.04.2006 imposing penalty of censure preferred appeal before the State Government, which was dismissed by the Government with observation that the petitioner has not raised any new ground and the grounds which have been raised are not substantial.

3. The said R.D. Singh who was punished by the disciplinary authority by verbatim same order as has been passed in the case of petitioner by the disciplinary authority when preferred the appeal before the State Government,

that appeal was allowed and said R.D. Singh has been exonerated from the charge.

4. Learned Counsel for the petitioner has shown the order of the disciplinary authority passed in the case of Shri R.D. Singh and also placed on record the copy of the order dt. 08.08.2003 passed by the State Government on R.D. Singh''s appeal as Annex.6 alongwith the rejoinder. It will be worthwhile to mention here that even in the reply to the writ petition the State also admitted that when the petitioner and R.D. Singh were working at Makarana Circle on the posts concerned, an inspection was carried out by the Commercial Taxes Officer and he found irregularities and, therefore, separate charge-sheet was served upon Shri R.D. Singh also.

5. Learned Counsel for the respondent vehemently submitted that this Court is not the Court of appeal against the order passed by the disciplinary authority and question is that whether fair chance is given to the petitioner before passing the order against the petitioner or not. It is also submitted that the petitioner could have preferred the review against the impugned order, which he has not preferred and, therefore, the writ petition deserves to be dismissed.

6. I considered the submissions of learned Counsel for the parties and perused the facts of the case.

7. After going through the charge-sheet served upon the petitioner and Shri R.D. Singh in consequence of the inspection conducted on the same date for the same post, for the same delinquency in relation to the same documents, once the said R.D. Singh has been exonerate, the petitioner cannot and could not have been given different treatment. At the cost of repetition, it may be mentioned that the allegations were with respect to maintaining of the departmental cash book, register etc, which are same for which Shri R.D. Singh has not been found guilty, who was also working on the same post at the same place where the petitioner was working. Even otherwise also, the order impugned passed by the disciplinary authority and the appellate authority that the order has been passed mechanically and the orders are non-speaking orders.

8. In view of the above reasons, the writ petition of the petitioner is allowed. The orders passed by the appellate authority dt. 19.09.2007 and disciplinary authority dt. 10.04.2006 are set aside.

