
(2013) 05 RAJ CK 0084

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2250 of 2013

Shailendra Kumar Bhatt

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 20-05-2013

Acts Referred:

Citation : (2013) 3 CDR 1500 : (2013) 4 WLN 409

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Advocate : Pramendra Bohra, for the Appellant; Meenu Purohit on behalf of Dr. G.R. Kalla, for the Respondent

Final Decision : Allowed

Judgement

Govind Mathur, J.—The petitioner was subjected to a disciplinary action as per the Rule 17 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 under a memorandum dated 07.12.2011 issued by the Director, Secondary Education, Rajasthan, Bikaner for an allegation that in the educational session 2004-2005, when he was posted as Principal, Government Secondary School, Rohida (Banswara), the result of the school remained 18.60%, that is less than the norms settled by the Department of Education, as such, the petitioner failed to discharge his administrative duty effectively. An explanation was submitted by the petitioner with assertion that he made his best efforts to avail good result, but due to certain unavoidable circumstances, the same did not come as per expectations. The disciplinary authority, thereafter, under an order dated 22.05.2012 imposed a penalty of censure upon the petitioner. A challenge given to that by way of filing an appeal came to be rejected under an order dated 31.12.2012.

2. While challenging the order passed by the appellate authority as well as the disciplinary authority, it is submitted by learned counsel for the petitioner that as per the law laid down by this court in the cases of Ashok Kumar Kulhari vs. State of Rajasthan & Ors., 2009 WLC (Raj.) UC 53 and Hari Kishan Sharma Vs. The

State of Rajasthan and Another, no disciplinary action could have been taken against the petitioner merely on the ground that the result of the school had been reduce.

3. Per contra as per the respondents the petitioner was penalized with minimum penalty of censure and that too after considering the fact that the result of the Secondary School Examination came down than the standard prescribed by the Department of Education. It is pointed out that in the year subsequent, the result came to be increased upto 90%^[3] and this fact is sufficient enough to establish that if the petitioner would have put adequate efforts, the result of the school would have not gone down.

4. Heard learned counsel for the parties.

5. The petitioner was subjected to proceedings under Rule 17 of the Rules of 1958 under the memorandum dated 07.12.2011. A detailed explanation was given by him making a reference of all the efforts made by him to avail satisfactory result. The respondent disciplinary authority, however, under the order dated 22.05.2012 imposed a penalty of censure upon the petitioner. The order impugned dated 22.05.2012 is apparently a non-speaking and unreasoned order. This order nowhere mentions as to how the petitioner was responsible for having a lower result than the settled standards. True it is, the appellate authority has taken into consideration the grounds raised by the petitioner in appeal and also gave a finding after discussing the same, but on this count, the wrong existing with the original order passed by the disciplinary authority do not stand rectified.

6. Be that as it may, this court in the case of Ashok Kumar Kulhari and Hari Kishan Sharma (*supra*) in quite unambiguous terms held that bad result may be on account of various reasons, for which teacher or Principal of the school ^[4] cannot be held responsible. The same view was taken in the case of Dharamveer vs. State of Rajasthan & Ors., reported in 2005 (5) RDD 1219 (Raj.) almost in similar circumstances holding as under:--

The allegation levelled against the petitioner is that in the educational session of 1998-99, result of the students of the school where the petitioner was teaching in the subject of Science remained below the standard settled by the Education Department. In memorandum dt. 07.12.2000 issued by the Deputy Director, Secondary Education, Bikaner (Churu), it is nowhere stated that the result of the school in specific subject remain below the standard settled by the Education Department due to slackness, carelessness or due to some act of commission or omission on the part of the petitioner. It is well settled that to constitute misconduct in a service, there must be commission or omission of some act on the part of the employee. Beside this, charge should be specific and must be without any ambiguity. The allegation of misconduct must be based on specific acts, deeds or omission of the employee. In absence of it, the charge shall be vague. The charge levelled against the petitioner is not at all specific, as such the

same is vague.

7. In the instant case also, there is no allegation that the result of the school concerned lowered down due to commission or omission on the part of the petitioner. The result below the norms settled by the Education Department may be for several reasons and without arriving at a finding that the result came down due to commission or omission on the part of the petitioner, he could have not been penalized under Rule 17 of the Rules of 1958, thus, the order impugned dated 22.05.2012 passed by the disciplinary authority as well as the order dated 31.12.2012 passed by the appellate authority are bad and deserves to be quashed. Accordingly, the writ petition is allowed. The impugned orders passed by the disciplinary authority and the appellate authority are quashed. No order as to costs.