
(2014) 04 RAJ CK 0141

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 605/2014

Subhash Chandra Meena

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 02-04-2014

Acts Referred:

Citation : (2014) 04 RAJ CK 0141

Hon'ble Judges : Amitava Roy, C.J.;Veerender Singh Siradhana, J

Bench : Division Bench

Advocate : Sanjeev Prakash Sharma, Senior Advocate Assisted Mr. Gaurav Sharma, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

Amitava Roy, C.J.—Being aggrieved by the rejection of his challenge to the order of his suspension and initiation of a disciplinary proceeding against him under Rule 16 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (for short, hereafter referred to as the Rules), the writ petitioner is in appeal against the judgment and order dated 11.3.2014 passed in S.B. Civil Writ Petition No. 2726/2014. We have heard Mr. Sanjeev Prakash Sharma, Senior Advocate assisted by Mr. Gaurav Sharma for the appellant/writ petitioner.

2. The synopsis of the appellant/writ petitioners pleaded case is that he is a member of the Scheduled Tribe category and belongs to Meena community. He had obtained a caste certificate to that effect on 9.11.2005 from Tehsildar, Jaipur and from the Office of the Assistant Collector and Additional District Magistrate, Jaipur on 17.7.1987. He was appointed to the post of Forest Guard in the Forest Department of the State, alongwith several others, vide order dated 11.3.1981. Thereafter, he rendered unblemished service over the years, and was eventually, promoted to the post of Assistant "Vanpal" by office order dated 26.3.2012. It was thereafter, that on 28.10.2013, he received a written communication from the Forest Conservator (Forest Animal), Jaipur and Primary Investigating Officer, whereby he was directed to present himself before the said authority on

11.11.2013 with his original caste certificate and the application submitted by him preceding his appointment in the department. Subsequent thereto, by order dated 17.1.2014, the appellant/writ petitioner was placed under suspension in contemplation of a disciplinary proceeding. It was thereafter, by the memorandum dated 21.1.2014, that the appellant/writ petitioner was intimated of the initiation of the said proceeding under Rule 16 of the Rules chiefly, on the charge that he had secured appointment in public service by producing a fabricated document representing himself to be of Meena community included in the Scheduled Caste, though in fact, he was a Brahmin. Being aggrieved, he sought to invoke the writ jurisdiction of this Court and having been unsuccessful, is in appeal.

3. The learned Single Judge, as the impugned judgment and order would reveal, did observe that his order of suspension being dated 7.1.2014, is of recent origin. Recording that there is no reason to interfere with the memorandum of charges, looking into the nature of allegation levelled, the learned Single Judge left the appellant/writ petitioner at liberty to prefer an appeal under Rule 22 of the Rules against the order of his suspension with request to the disciplinary authority to complete the disciplinary enquiry expeditiously. The learned Single Judge also fixed a time-frame of three months for disposal of the appeal.

4. Mr. Sharma has urged that not only the charge levelled against the appellant/writ petitioner is unfounded, it discloses a pre-determined mind of the disciplinary authority to penalize him. According to the learned senior counsel, at this distant point of time, except relying on the certificate issued by the competent authority produced by him, to demonstrate that he belonged to the Meena community, it would be difficult for him to produce any other evidence to disprove the charge, and thus, the disciplinary proceeding, as a matter of fact, would be an useless formality. As the order of suspension has been passed in contemplation of the impugned disciplinary proceeding, in the attendant facts and circumstances, judicial intervention, to set at naught the impugned actions, is urgently warranted, he urged. Upon hearing the learned senior counsel for the appellant/writ petitioner and on a consideration of the pleaded facts and the documents on record, we are not inclined to upset the impugned judgment and order. As it is, the Rules provide for appeal against an order of suspension, and further, under Rule 13(5), an order of suspension made or deemed to have been made under this Rule, may, at any time be revoked by the authority which made the order or by any authority to which that authority is subordinate.

5. In the above view of the matter, having regard to the nature of the allegation levelled, we find ourselves in full agreement with the view taken by the learned Single Judge. We therefore, see no reason to interfere with the impugned judgment and order. We reiterate, that it would be open for the appellant/writ petitioner to file an appeal under Rule 22 of the Rules or submit an appropriate representation requesting the authority concerned to invoke its powers under Rule 13(5) of the Rules, if so advised. If such an appeal and/or representation is

filed, the authority concerned would dispose of the same within a period of four weeks therefrom. The appeal stands disposed in these terms. The stay application also stands disposed.