
(2010) 09 RAJ CK 0073
In the Rajasthan High Court
Case No : Civil Writ Petition No. 8807 of 2002

Surendra Kumar Sharma

APPELLANT

Vs

State of Raj. and Another

RESPONDENT

Date of Decision : 22-09-2010

Acts Referred:

Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 — Rule 16
Rajasthan Pension Rules, 1996 — Rule 89

Citation : (2010) 09 RAJ CK 0073

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajay Rastogi, J.—Petitioner and Officer-in-charge appeared in person.

2. Matter has come up on misc. application filed by the petitioner along with which copy of the order dt.28.5.2010 has been placed on record whereby he has been exonerated in the departmental inquiry initiated against him.

3. The petitioner joined his service as Lower Division Clerk in July, 1965 and promoted as Upper Division Clerk in February,1993. However, the petitioner while holding the post of Upper Division Clerk was placed under suspension vide order dt.26.9.2000 and served with the charge-sheet dt.11.12.2000 (Annx.4) Under Rule 16 of the CCA Rules and pending inquiry he stood retired from service on attaining the age of superannuation on 31.3.01.

4. By the instant petition, the petitioner has challenged the charge-sheet dt.11.12.2000 served upon him on various grounds and has further prayed that as he stood retired from service, the respondents may be directed to release all his retiral dues admissible to him under law along with interest and the period of suspension may also be regularized.

5. The departmental inquiry initiated against the petitioner in December,2000 has been finally concluded and order of exoneration has been passed by the

disciplinary authority after almost a decade dt.28.5.2010 and while exonerating the petitioner it has been decided that his period of suspension from 26.9.2000 to 31.3.2001 (date of retirement) shall also be treated to be regular service.

6. Petitioner submits that once he has been exonerated in the departmental inquiry initiated against him which came as impediment in withholding his retiral dues, on account of change in circumstances the respondents may be directed to release all his retiral dues which are admissible under law along with interest which this Court considers appropriate. He further contends that once there is a complete exoneration as evident from the order dt.28.5.2010 he is also entitled for the salary of the period during which he remained under suspension other than subsistence allowance already paid to him which could not have been withheld by the respondent in the facts of the present case.

7. Officer-in-charge present in the Court submits that after passing of the order of exoneration by the disciplinary authority dt.28.5.2010 necessary orders have been issued by the department to release all his retiral dues which are admissible to him under law and it is in process and will be paid to him in due course of time.

8. Once the petitioner stood exonerated in the departmental inquiry initiated against him, it is bounden duty of the department to see that all his retiral dues which are admissible to him under law should have been paid to him without any further delay since he has already faced agony of departmental inquiry initiated against him which remained as sword over his head for almost a decade and merely passing of necessary orders in compliance of the order of exoneration in departmental inquiry will not absolve the authorities from their responsibility cast upon them.

9. This Court finds substance in the submissions made by the petitioner that once he stood exonerated, apart from his entitlement of retiral dues admissible to him under law, he is also entitled for salary other than subsistence allowance which must have been paid to him during the period of suspension and at the same time he is also entitled for interest over his retiral dues which remained withheld for almost a decade but this Court is not required to examine the validity of the charge-sheet dt.11.12.2000 which has been challenged in the instant petition in view of his final exoneration vide order dt.28.5.2010.

10. Consequently, writ petition stands allowed. The respondents are directed to release all his retiral dues along with salary other than subsistence allowance of the period during which he remained under suspension, along with interest @9% per annum in terms of Rule 89 of the Rajasthan Pension Rules, 1996 from the date it became due till its actual payment after its due computation admissible under law within a period of two months. No costs.