

(2000) 04 RAJ CK 0028
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2392 of 1999

Virendra Kumar Jain

APPELLANT

Vs

The State of Rajasthan and Another

RESPONDENT

Date of Decision : 11-04-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 3 RLW 1755 : (2000) 3 WLC 227 : (2000) 2 WLN 125

Hon'ble Judges : Shiv Kumar Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Shiv Kumar Sharma, J.—The petitioner seeks to quash the charge sheet dated July 10, 1997, order of converting enquiry from Rule 16 to Rule 17 of the Rajasthan Civil Services (Classification, Control and Appeals) Rules, 1958 (for short 1958 Rules) dated December 8, 1997, order of punishment dated August 4, 1998 of the Disciplinary Authority and order of Reviewing Authority dated March 11, 1999.

2. The grievance projected by the petitioner is that initially enquiry under Rule 16 of 1958 Rules was initiated against him and charge sheet was served on July 10, 1997 which contained three charges of flouting the Government order in carrying out the transfers of 25 teachers, releasing payment by cash instead of cheque and releasing the amount of subsidy with much delay. After receiving the reply of the petitioner the respondent converted the enquiry from Rule 16 to Rule 17 of 1958 Rules. Thereafter the Disciplinary Authority vide its order dated August 4, 1998 imposed punishment of stoppage of three annual grade increments without cumulative effect. Review petition submitted by the petitioner against the said order was also rejected on March 11, 1999.

3. Sum and substance of the arguments advanced by Mr. Ajay Rastogi, learned Counsel for the petitioner is that order of converting enquiry from Rule 16 was

arbitrary being devoid of reasons and justification. By this act the respondents succeeded in suppressing the material which could establish bonafide actions of the petitioner. Punishment order was passed without application of mind and without considering the material on record. Order of reviewing authority is also a non-speaking order, therefore all these orders deserve to be set aside. Reliance was placed on *Prabhu Lal Agarwal v. State of Rajasthan and Ors.* 1991 (2) RLR 630 .

4. Mr. G.S. Bapna learned Counsel for the respondents supported the action of the respondents.

5. I have reflected over the rival submissions and carefully scanned the material on record.

6. Their Lordships of the Supreme Court in *The High Court of Judicature at Bombay, Through Its Registrar Vs. Shashikant S.Patil and Another*, indicated the scope of judicial review. It was held that, "Interference with the decision of Departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution, if such authority had held proceedings in violation of the principles of natural justice or in violation of the statutory regulations prescribing the mode of such enquiry or if the decision of the authority is vitiated by considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authority on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. The settled legal position is that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter for canvassing before the High Court in a writ petition filed under Article 226 of the Constitution."

7. "The High Court is not constituted in a proceeding under Article 226 of the Constitution as a Court of appeal, said their Lordships of the Supreme Court in *State of Andhra Pradesh Vs. Sree Rama Rao*, over the decision of the authorities holding a departmental enquiry against a public servant; it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated, whether there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for writ under Article 226 of review the evidence and to arrive at an independent finding on the evidence."

8. In the case on hand initially the enquiry was initiated against the petitioner under Rule 16 but it appears that the respondents after receiving the reply of the petitioner did not think to continue the procedure for imposing the major penalties but decided to adopt the procedure for imposing minor penalties provided in Rule 17 of 1958 Rules. Though the petitioner submitted detailed

reply to the chargesheet but he was again afforded opportunity to make representation. The petitioner was also given personal hearing. Under these circumstances it is difficult to agree with the submissions canvassed by learned Counsel for the petitioner that the action in converting enquiry was devoid of reasons.

9. During the course of arguments I was taken through the charge sheet, reply and the impugned orders and attempt was made to convince me that under the existing circumstances the punishment order was arbitrary and the respondents failed to prove the charges but I am unable to agree with the submissions. To me the impugned orders indicate application of mind, I am satisfied that there is ample legal evidence on which the disciplinary authority had based its findings. In so far as argument of detail discussion is concerned, the Hon''ble Supreme Court in High Court of Judicature v. Shashi Kant S. Patil's case (supra) observed that even detailed discussion of enquiry officer's report is not necessary. It was held thus.

But it is not necessary that the disciplinary authority should discuss materials in detail and contest the conclusions of the enquiry officer." Otherwise the position of the disciplinary authority would get relegated to a subordinate level.

I also do not find any infirmity in the order of reviewing authority. Scope of review is also limited and where the petitioner did not submit new material the reviewing authority was justified in rejecting the review petition.

10. Resultantly, the writ petition fails and stands dismissed. No costs.