

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION No.5189/1995.

: :

Jagnnath Prasad Tyagi Vs. State of Rajasthan & Anr.

: :

Date of Order 30.6.2009

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr. Sanjay Pareek with M. S. Raghav for the petitioner.
Mr. S. Zakawat Ali, Deputy Govt.Counsel for the State.

Heard learned counsel for the parties.

2. This writ petition has been filed challenging the order dated 31.5.1991 by which petitioner was awarded penalty of censure and the order dated 27.11.1992 by which his appeal there against was rejected by the Appellate Authority and the order dated 27.9.1993 by which his review petition was rejected by the Governor of the State.

3. Shri Sanjay Pareek, learned counsel for the petitioner has argued that charge against petitioner was absolutely vague inasmuch as the notice under Rule 17 of Rajasthan Civil Services (Classification, Control & Appeal)

Rules, 1958 (for short "CCA Rules") did not specifically contain the charge of supervisory negligence, yet petitioner was held guilty of such negligence. Learned counsel submitted that recovery with reference to which it is alleged that demand was not created and recovery could be made after delay of 10 years, pertains to period much prior to posting of petitioner as Tehsildar at Nagar, where the petitioner for the first time came to be posted in March, 1980. No action was taken against Tehsildars of the earlier time and only petitioner was chosen for being penalized. Learned counsel submitted that reply submitted by him was not considered by Disciplinary Authority in which he categorically stated that prior to his posting there had remained at Nagar as many as 11 Tehsildars between 1977 to 1985. He got the report with reference to paras No.2/77 and 12/77 and sent letter to District Collector, Bharatpur on 24.1.1987 that he would be forwarding compliance within one week but in the meantime he was relieved from Teshildar because his transfer on 12.2.1987. Incomplete compliance was ultimately completed 2 years and 8 months thereafter. The compliance made in paras No.2/77 & 12/77 was not completed by earlier officers. Petitioner solely cannot be held responsible for the delay in recovery. The Appellate Authority

and Reviewing Authority have both failed to appreciate the matter and rejected appeal and review petition by orders merely holding that petitioner awarded penalty of censure. This has had adverse effect on the future prospects of petitioner in his promotion to the post of RAS was delayed by one year and he was superseded.

4. Shri S. Zakawat Ali, learned Deputy Government Counsel has opposed the writ petition and submitted that petitioner was in the show cause notice clearly informed that despite five d.o. letters and reminders sent to him, he did not take any action for recovery of the due amount. It was a case of serious negligence and a sum of Rs.1,21,463/- could not be recovered for period of ten years. Learned counsel submitted that Disciplinary Authority has considered all these aspect of the matter including the fact that petitioner was posted as Tehsildar at a later point of time and in totality of circumstances, taking lenient view awarded penalty of censure only. The Appellate Authority and Reviewing Authority have rightly considered the matter.

5. Having heard learned counsel for the parties and perused the material on record, I find that even though

petitioner remained posted as Tehsildar, Nagar for the period between 1985 to 1987, he was sent d.o. letters/reminders for ensuring recovery of the aforesaid amount on as many as five times. In his reply, it was stated by the petitioner that Revenue Accountant did not timely prepare the report and since the matter pertains to old records action could not be timely taken. Even then he wrote a letter to District Collector, Bharatpur on 24.1.1987 informing about partial compliance and that full compliance would be made, but in the meantime he was transferred, therefore, full compliance could not be reported. Compliance in toto was made two years and eight months thereafter. Contention that prior to petitioner, several other persons were posted as Tehsildar, therefore, petitioner cannot alone held responsible, possibly does not absolve the petitioner of his responsibility to ensure compliance of instructions of District Collector, Bharatpur. Taking all these factors into consideration, the respondents awarded lighter penalty of censure. Further contention that charge-sheet did not specifically contain charge supervisory negligence also cannot be accepted because in the notice served upon petitioner, it was specifically stated that he was guilty of deliberate and serious lapses, which amounted to serious misconduct and yet he was held guilty and lighter charges

ultimately found proved against him was that of only supervisory negligence. Even otherwise, the scope of entertaining by this Court in the writ petition against an order of penalty in a disciplinary proceedings is very limited. No interference is called for.

The writ petition is, therefore, dismissed.

(MOHAMMAD RAFI Q)J.

A.Arora/-
Item No.H/11.