

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

ORDER

S.B.CIVIL WRIT PETITION NO.3141/1995

Shyam Kant Sharma

Versus

The State of Rajathan and others

Date of order :: April 30, 2009

HON'BLE MR.JUSTICE PREM SHANKER ASOPA

Mr.Pradeep Singh, for the petitioner
Mr.M.Faisal Beg, Dy. Govt. Counsel

BY THE COURT

(1) By this writ petition the petitioner has challenged the order dated 30.6.1995 whereby the petitioner has been punished with stoppage of one annual grade increment without cumulative effect under rule 17 of the Rajathan Civil Services (Classification, Control and Appeal) Rules, 1958 (in short 'the Rules of 1958').

(2) The relevant facts of the case are that while the petitioner was working as Senior Teacher, Government Senior Secondary School, Manak Chowk, Jaipur, on 8.3.1995 his son came to the School at about 9.00 a.m. and informed the petitioner about serious illness and suffering from fits, of Kumari Suraksha Sharma, aged 14½ years (daughter of the petitioner). The petitioner immediately wrote an application in the name of the Principal of the School and since the Principal was not in his office, the

petitioner gave $\frac{1}{2}$ day's leave application to his colleague teacher. The petitioner got his daughter admitted in Adarsh Hospital, Sanganer.

On 4.4.95 a memorandum was served upon the petitioner by respondent No.3 to which reply was submitted on 19.4.1995. Vide order dated 8.3.1995 the petitioner was placed under suspension and on 30.6.1995, the respondent No.3 imposed penalty of stoppage of one annual grade increment without cumulative effect, which is under challenge in this writ petition.

(3) Submission of counsel for the petitioner is that he had submitted explanation to the memorandum on 4.4.1995 issued under Rule 17 of the Rules of 1958 with regard to the aforesaid absence on sudden inspection by the District Education Officer and stated therein that he had handed over the leave application to the Senior Teacher for the reason that his daughter was suffering from Epilepsy and took her to the hospital. In support of the said reply to the explanation, medical certificate was also enclosed. The impugned order of punishment dated 30.6.1995 was passed without giving due weightage to the explanation supported by the medical certificate and further application for leave also.

(4) Further submission of the counsel is that the respondents have acted arbitrarily in not accepting the said explanation as the petitioner had to leave office premises in emergency for which he was also entitled to casual leave which is meant for such kind of emergent situation and no prior sanction is necessary.

(5) Counsel for the State submits that the explanation given by the petitioner was found to be not satisfactory and therefore, the punishment order was rightly passed.

(6) I have gone through record of the writ petition and further considered submission of counsel for the parties.

(7) In my view, the impugned order dated 30.6.1995 is not only contrary to the settled norms of grant of leave but is also contrary to the humanitarian attitude, therefore, it is arbitrary.

(8) Accordingly, the writ petition is allowed, the impugned order dated 30.6.1995 is quashed and set aside. The petitioner shall also be entitled to all consequential benefits. Compliance of this order will be made within three months.

(PREM SHANKER ASOPA) J.

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