

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.6141/2010
Mukesh Kumar Gupta vs. State & Ors.

Date of order : 30/4/2010.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri M.S. Raghav for the petitioner.

Counsel submits that petitioner was placed under suspension vide order dt.20/4/2005 (Ann.1) on account of criminal case being registered for offences punishable under the Prevention of Corruption Act. Counsel further submits that after the challan was filed in the Court, charges have yet to be framed and the trial may take its own course while he is facing agony of suspension for more than five years.

Counsel further submits that without examining the continuation of suspension as to whether it is required or not, the authorities are blindly invoking the circular of the State Government dt.10th August, 2001 while deciding representation/review of suspension submitted by the employee under Rule 13(5) of the Rajasthan Civil Services (CCA) Rules, 1958.

Counsel has further placed reliance on a judgment of this Court reported in Prem Prakash Mathur Vs. State of Rajasthan & Ors (2005(9) RDD 3962 (Raj.) & Vishnu Kr. Gupta Vs. State (2009 WLC (UC) 701). Counsel

submits that the Circular issued by the State Government dt. 10/08/2001 will not supersede the statutory requirement which is to be complied with by the authority under Rule 13(5) of the Rules.

Without going into merits of the matter, this writ petition is disposed of with the directions to the petitioner to make a fresh representation for review/reconsideration of the orders of suspension dt. 20/4/05 before the competent authority under Rule 13(5) of the Rules, 1958 who may independently examine the same without being influenced by the instructions dated 10th August, 2001 and may also take note of the judgment (supra) and pass speaking order within three months thereafter and decision may be communicated to the petitioner who if still feels aggrieved, will be free to avail the remedy under law.

(MOHAMMAD RAFIQ), J.

RS/