

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

SB Civil Writ Petition No. 13465/2010
Subhash Singh Vs. State of Raj. & ors.

DATE OF ORDER : 30/11/2010

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Abhishek Sharma, for petitioner.

Counsel submits that the petitioner was placed under suspension way back vide order Anx. 1 dt. 03/07/2006 on account of a criminal case being registered against him under the provisions of Prevention of Corruption Act. He further submits that the challan has been filed but the charge has not been framed against him so far and petitioner is facing agony of suspension for last more than 4 years by now.

He although made representation for reconsideration under Rule 13(5) of the Rules but the same remain unheeded which compelled him to approach this Court by filing instant petition. He further submits that without examining the continuance 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 the representation/review of suspension submitted by the employee under Rule 13(5) of the Rajasthan Civil Services (CCA) Rules, 1958.

Counsel has placed reliance on judgment of this Court reported in 2005(9)RDD 3962(Raj.),

Prem Prakash Mathur Vs. State of Rajasthan & Ors. decided on 20/09/2005 & Vishnu Kr. Gupta Vs. State (2009 WLC (UC) 701). Counsel further submits that the Circular issued by the State Government dt. 10/08/2001 will not supersede the statutory requirement to be complied with by the authority under Rule 13(5) of the Rules.

It has been informed that a circular has been issued by the DOP dt. 07/07/2010 for placing such matters before the Committee constituted for the purpose relating to the prolonged suspension. Counsel submits that the case of the petitioner may also be placed before the Committee.

Once the circular dt. 07/07/2010 has been issued for placing such matters before the Committee constituted for the purpose, it is obvious that the matter will be considered also by the Committee in the light of the observations made by the Court in the judgment referred to supra.

Without going into merits of the matter this Court considers it appropriate to direct the petitioner to make a fresh representation for review/reconsideration of the order of suspension Anx. 1 dt. 03/07/2006 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

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referred to (supra) and pass speaking order within three months thereafter and decision may be communicated to the petitioner and if still he is aggrieved, will be free to avail the remedy under law.

With these directions, the petition stands disposed of accordingly.

[AJAY RASTOGI], J.