

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

JAIPUR BENCH, JAIPUR

ORDER

SB Civil Writ Petition No.7326/2011

Suraj Pal versus State of Rajasthan & anr

30.11.2011

HON'BLE MR. JUSTICE MN BHANDARI

Mr CP Sharma - for petitioner

Mr MF Beg, Dy GC – for respondents

BY THE COURT:

The matter has come up on an application filed under Article 226 (3) of the Constitution of India for vacation of the interim order dated 31.5.2011, however, with the consent of the parties, writ petition is heard finally.

This writ petition has been filed against the order of punishment whereby 25% of pension is ordered to be withheld by invoking the Rajasthan Civil Services (Pension) Rules, 1996. The main ground of challenge is in respect of violation of rule 7 of the Rules of 1996. The petitioner is a retired person thus before passing punishment order, withholding pension to whatever extent, the matter was required to be referred to the Governor and

opinion of the Rajasthan Public Service Commission is required. Reference of the judgment of this court in the case of “Tahil Manghani versus State of Rajasthan”, reported in 2009(5) WLC (Raj) 74 has been given. Pursuant to the aforesaid judgment, an interim order was passed by this court but, by virtue of the aforesaid, petitioner has not been given any benefit. It is prayed that impugned order may be set aside with direction to the respondents to extend all retiral benefits to the petitioner.

Learned counsel for respondents submits that the impugned order has been passed in compliance to the Rules of 1996 but, thereafter, realising that rule 7(2) and relevant provisions have not been complied with, he prays that if the order of punishment is set aside on the aforesaid ground, the respondents may be given liberty to pass a fresh order in accordance with law.

I have considered rival submissions of learned counsel for the parties and perused record of the case.

It is a case where petitioner was served with the charge sheet and thereupon retired from service. The enquiry against petitioner was completed after his retirement and, he is

punished by withholding 25% pension. The allegation is regarding violation of Rule of 1996. I find that the Rules of 1996 have not been followed as the matter was required to be reported to the Governor which was not reported in this case. It has not been disputed by learned counsel for respondents that the order was passed at the department level without reporting it to the Governor and by completely other requirements as per rules.

In view of aforesaid, impugned order dated 21.2.2011 at Annexure-14 is set aside. The petitioner would be entitled to the pensionary benefits as the consequence thereof. The respondents would, however, be at liberty to pass a fresh order as per the Rules of 1996. Till a fresh order is passed, that too, adverse to the petitioner, he should be extended all retiral benefits. Necessary exercise in that regard may be completed within a period of two months from the date of receipt of copy of this order. With the aforesaid, writ petition so as the stay application and application for vacation of the stay order stand disposed of.

(MN BHANDARI), J.

bnsharma

All corrections made in the judgment/ order have been incorporated in the judgment/ order being emailed.

(BN Sharma)

