

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writs No. 4396/2018

Rajveer Singh Son Of Shri Beni Prasad, Aged About 52 Years, Resident Of B-165, Jawahar Nagar, Bharatpur District Bharatpur (Raj.)

----Petitioner

Versus

1. The State Of Rajasthan Through Its Principal Secretary, Department Of Education, Government Of Rajasthan Secretariat Jaipur.
2. The Secretary, Department Of Personnel, Government Of Rajasthan, Secretariat, Jaipur.
3. The State Project Director, Rajasthan Council Of Secondary Education, Dr. Radhakrishnan Shiksha Sankul, Block-6, Jawahar Lal Nehru Marg, Jaipur (Raj.)
4. The Additional State Project Director, Rajasthan Council Of Secondary Education, Dr. Radhakrishnan Shiksha Sankul, Block-6, Jawahar Lal Nehru Marg, Jaipur (Raj.)

----Respondents

For Petitioner(s) : Mr. S.K. Banewal, Adv.

For Respondent(s) :

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR

Order

23/03/2018

सत्यमेव जयते

The petitioner in the instant petition has challenged the order dt.03.05.2016 (Annex.-2) whereby he has been placed under suspension on account of his involvement in a case registered under Prevention of Corruption Act as the petitioner was found to be involved in taking illegal gratification. The petitioner has further challenged order dt.15.12.2017 (Annex-7) whereby he has been

repatriated back to his parent department i.e. Education Department on the post of Teacher.

Learned counsel for the petitioner has submitted that the petitioner who was working as Teacher, in Education Department of Govt. of Rajasthan came to be appointed on the post of Junior Engineer on deputation basis in 2013.

The petitioner has pleaded that while he was posted as Junior Engineer in Rastriya Mathyamik Shiksha Abhiyan (in short RMSA) at Bharatpur a false and fabricated FIR was registered against him on 25.04.2016 and the ACB officers trapped the petitioner and recovery of Rs.30,000/- was made against him. The police registered the case for offence under Section 7 & 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. The petitioner has pleaded that respondent department placed him under suspension by order dt.03.05.2016 and changed his headquarters from District Bharatpur to District Jaipur.

The petitioner has pleaded that after shifting his headquarters at Jaipur, he continuously attended the office. The petitioner filed a SBCWP No. 8551/2017 before this Court for setting aside the suspension order as per circular of the State Government dt.23.02.2015.

The petitioner has submitted that writ petition was disposed of vide order dt.30.05.2017 and the petitioner was asked to file representation before the authority. The petitioner has submitted that instead of recalling the suspension order, the respondent/borrowing department i.e. Rajasthan Madhyamik Shiksha Parishad, has passed the impugned order dt.15.12.2017 whereby they have repatriated the petitioner from the post of Junior Engineer to the post of Teacher and the petitioner has been

relieved to join the office of District Education Officer Secondary(I) Bharatpur.

Learned counsel for the petitioner has submitted that the impugned order thereby sending him back to his parent department is *prima-facie* illegal and petitioner was placed under suspension and as such during this period, he could not have been repatriated back. Learned counsel has further submitted that the petitioner's case for recalling the suspension order is still in progress before the committee concerned and sending back to the petitioner to his parent department is, not justified at all.

Learned counsel further drawn attention of this Court on guidelines issued by Rajasthan Madhyamik Shiksha Parishad in respect of persons who are appointed on deputation basis. Learned counsel has submitted that as per Clause-7 of the said circular, the borrowing department can cancel the deputation only on account of person not discharging his functions properly or if there are complaints against him to perform the job not in a proper manner.

Clause-7 is reproduced hereunder.

“7. लक्ष्यों की पूर्ति, व्यवहार एवं शिकायतों को देखकर तथा सेवाएँ संतोषप्रद नहीं होने पर प्रतिनियुक्ति किसी भी समय समाप्त की जा सकती है। इन पदों पर नियुक्ति अधिकारियों का लियेन पैतृक विभाग में ही रहेगा।”

I have heard learned counsel.

This Court finds that the petitioner has been placed under suspension on account of involvement in a case which has been registered in Prevention of Corruption Act. The petitioner is alleged to have been caught red handed while accepting the money. This Court finds that the borrowing department i.e. Rajasthan Madhyamik Shiksha Parishad had correctly passed the order of

suspension and no illegality can be attached to the same. This Court finds that order of sending the petitioner back by cancelling his deputation, the borrowing department thought it proper that the petitioner has not satisfactorily worked in proper manner and he was implicated in a case registered under Prevention of Corruption Act and further that the borrowing department thought that continuation of the petitioner on deputation is not required, as he was implicated in a criminal case.

The perusal of Clause-7 which has been relied upon by the petitioner of order dt.11.09.2017, also refers to the power of the borrowing authority to cancel the deputation after considering the performance of the petitioner, the complaints or behaviour of the person or relevant consideration for keeping such person on deputation. This Court finds that the borrowing department, if does not want to keep the petitioner on deputation, no right can be said to be violated of the petitioner. The deputation of the petitioner in a borrowing department is ultimately to be considered in the interest of the borrowing department and if he is not found fit, due to his integrity doubtful the borrowing department has every right to cancel the order of the deputation by sending the petitioner back to his parent department. This Court does not find any illegality in the suspension order and the order sending back to the petitioner to parent department by cancelling his deputation.

The writ petition is without any force and the same is accordingly dismissed.

(ASHOK KUMAR GAUR),J