

Subhash Chandra Vs. State of Raj. and ors

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Court : Rajasthan Jodhpur

Decided On : Sep-03-2014

Appellant : Subhash Chandra

Respondent : State of Raj. and ors

Judgement :

S.B. CIVIL WRIT PETITION No.3017/2011. Subhash Chandra Vs. State of Rajasthan & Ors. Order dated 03.09.2014 1/5 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR. ::

ORDER

:: S.B. CIVIL WRIT PETITION No.3017/2011. Subhash Chandra Vs. State of Rajasthan & Ors. .. Date of Order ::::

3. d September, 2014. PRESENT HON'BLE Dr. JUSTICE VINEET KOTHARI
Appearance: None present. -- BY THE COURT:

1. The lawyers are observing strike which is contrary to various Supreme Court decisions. Name of Mr. Harish Purohit, as the counsel for the petitioner and Mr. Anil Bissa, as the counsel for the respondents, is shown in the cause list.

2. Nobody is present for either of the parties.

3. Perused the record. The case is listed at Sl. No.10 in the cause list under the category of Admission with Notice Served - Reply Filed..

4. The writ petition has been filed by the petitioner in this Court on 01.04.2011 with the following prayer:- S.B. CIVIL WRIT PETITION No.3017/2011. Subhash Chandra Vs. State of Rajasthan & Ors. Order dated 03.09.2014 2/5 It is, therefore, respectfully prayed that this writ petition may kindly be allowed and by an appropriate writ, order or direction the impugned order Annexure-1 dated 13.09.2010 and Annexure-2 dated 07.03.2011 may kindly be declared illegal and accordingly quashed and set aside. The respondents may kindly be directed to reinstate the petitioner back in service with all consequential benefits. Any other relief to which petitioner appear entitled to may kindly also be passed in favor of the petitioner.. 5. The petitioner working as Constable in the respondent Police Department has filed this writ petition against the impugned order Annexure-1 dated 13.09.2010 placing him under suspension pending inquiry against which the petitioner has filed an appeal before the DIG, Bikaner which was dismissed vide Annexure-2 dated 07.03.2011. It appears that the petitioner has earlier approached this Court by filing the writ petition namely, S.B. Civil Writ Petition No.11705/2010 Subhash Chandra Vs. The State of Rajasthan & Ors. which came to be dismissed by the learned Single Judge of this Court on 15.12.2010 on the ground of availability of alternative remedy of appeal under Rule 22 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 and the petitioner was granted liberty to avail the same. Thereafter, the appeal preferred by the petitioner was also S.B. CIVIL WRIT PETITION No.3017/2011. Subhash Chandra Vs. State of Rajasthan & Ors. Order dated 03.09.2014 3/5 dismissed by the Division Bench of this Court. Hence, the present writ petition has been again filed in this Court on 01.04.2011 assailing both the orders of suspension dated 13.09.2010 (Annexure-1) and 07.03.2011 (Annexure-2). The petitioner has also relied upon an order dated 14.03.2011 (Annex.

8) passed in appeal filed by one Rajendra Yadav, Assistant Sub-Inspector against his suspension and which was allowed by the respondent authority. The petitioner submitted that his appeal against suspension ought to have been allowed keeping in view the order dated 14.03.2011.

6. After issuance of the notices in this case, the respondent Department has filed a detailed reply to the writ petition and has submitted that the petitioner was caught red-handed by the Anti Corruption Bureau while demanding bribe and in pursuance of which, the Anti Corruption Bureau has filed a criminal case against the petitioner in the competent criminal Court which is still pending trial and the departmental inquiry proceedings are also pending against the petitioner. It is also submitted that an FIR bearing number 348/2010 has also been lodged by the Anti Corruption Bureau for the offences under Sections 7 and 12 of the Prevention of Corruption Act, 1988 which is also pending inquiry and the departmental inquiry is said to be initiated against the petitioner. The substance of the reply filed by the respondent Department in their para 5 and 6 are quoted herein below for ready reference:- S.B. CIVIL WRIT PETITION No.3017/2011. Subhash Chandra Vs. State of Rajasthan & Ors. Order dated 03.09.2014 4/5

5. That the contents of para No 5 are of the writ petition are not admitted in the manner averred, it is humbly submitted that petitioner has demanded bribe and the matter is under investigation, and a departmental enquiry is contemplated against him, hence, petitioner is placed under suspension. It is further humbly submitted that annexure 4 is replaced by circular dated 10.8.2001 issued by the department of personal on the recommendation of Administrative reform department that when a government employee is caught red handed taking bribe, he shall immediately be suspended without any exception, and he shall not be reinstated till he is exonerated by the competent court, but petitioner is not suspended as per this circular.

6. That contents of para No.6 of the writ petition are not admitted in the manner averred, it is humbly submitted that petitioner has not been suspended as per circular annexure 4 or circular dated 10.8.2001, but petitioner was suspended on a departmental enquiry is contemplated against him because on receipt of the transcript of taking showing demand of bribe, a preliminary enquiry was conducted by the Assistant Superintendent of Police (Rural) and primarily the complaint was found correct.. 7. Upon perusal of the record of the case and the relevant documents, this Court is satisfied that no interference is called for in the orders of suspension as also rejection of appeal filed by the S.B. CIVIL WRIT PETITION

No.3017/2011. Subhash Chandra Vs. State of Rajasthan & Ors. Order dated 03.09.2014 5/5 petitioner. Since both the criminal case as well as the departmental inquiry against the petitioner have been pending which, in law can be initiated and run simultaneously against an delinquent officer, no interference is called for by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India. The writ petition is, therefore, premature. It is only expected that a fair and quick trial is given to the petitioner and the petitioner is also expected to co-operate in the departmental inquiry initiated against him. The parallel case of Rajendra Yadav (ASI) cited by the petitioner has no applicability as each case of disciplinary action depends upon its facts and the independent role of the incumbent in anti corruption cases and no parity can be drawn.

8. Accordingly, with the observations foregoing, this writ petition is disposed of without interfering in the impugned suspension order Annexure-1 dated 13.09.2010 and the Appellate Order Annexure-2 dated 07.03.2011. No costs.

9. A copy of this order be sent to the parties concerned forthwith. (Dr. VINEET KOTHARI), J.

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