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Prem Sukh Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jan-05-1993

Reported in : (1993)IILLJ43Raj; 1993(1)WLC402

Judge : N.L. Tibrewal, J.

Acts : Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 - Rule 13; Indian Penal Code (IPC) - Sections 161; Prevention of Corruption Act - Sections 5(1) and 5(2)

Appeal No. : C.W.P. No. 4224/1992

Appellant : Prem Sukh

Respondent : State of Rajasthan

Advocate for Def. : Paker Farooq, Dy. G.A.

Advocate for Pet/Ap. : P.K. Sharma, Adv.

Judgement :

N.L. Trbrewal, J.

1. No return has been filed on behalf of the respondents inspite of the fact that sufficient time has already been given. The writ petition was admitted on June 15, 1992. Thereafter, on September 14, 1992 one month's time was granted for filing

the reply and again on November 23, 1992 one month's time was granted. The learned Dy. G.A. though seeks time to file the reply, but taking into consideration the facts of the case and the fact that sufficient time has already been granted, I decline his prayer.

2. The petitioner was holding the post of X-Ray Technician in Government T.B. Clinic, Kota on March 2, 1987. It is alleged that at the instance of one Shankar Lal a trap was arranged by the Anti- Corruption Department, Kota, as the petitioner was demanding Rs. 20/- for tea, etc. After carrying out the trap operation a criminal case was registered against him under Section 161 IPC Section 5(1)(d) read with Section 5(2) of the Prevention of Corruption Act. After registration of the case investigation was carried on and subsequently a charge-sheet was filed in : the Court of Special Judge, Anti-Corruption Cases, Kota. After filing the charge-sheet, he was suspended under Rule 13 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 on the ground that a criminal case was pending against him under Section 161 IPC and Section 5(1)(d) read with Section 5(2) of the P.C. Act.

3. The petitioner was prosecuted in the Court of Special Judge, Anti- Corruption Cases, Kota in Criminal Case No. 6/79 and the learned Special Judge vide his judgment dated March 18, 1981 convicted and sentenced him under both the courts. The petitioner preferred an appeal before this Court which was heard and disposed of on July 7, 1989 in S.B. Cr. Appeal 229/81. The appeal was allowed by this Court after disbelieving the prosecution case. Consequently the petitioner was acquitted of all the charges levelled against him.

The contention of the learned counsel for the petitioner is that the basis of the suspension of the petitioner was the pendency of the above criminal case and after his acquittal in that case, the basis goes away, as such, the suspension order deserves to be set aside. In my view, this contention carries weight. From the impugned suspension order it is clear that the petitioner was suspended simply on the ground of pendency of the criminal case against him under Section 161 IPC and Section 5(1)(d) read with Section 5(2) of the P.C Act.

After the acquittal of the petitioner in the above criminal case, the basis of the order goes away and the order cannot be sustained.

4. Consequently, this writ petition is allowed and the order of suspension dated September 17, 1980 (Annex. 1) is hereby quashed and set aside. The petitioner shall be entitled to all consequential benefits.

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