

Nemi Chand Vs. the State of Rajasthan

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Court : Rajasthan

Decided On : Jul-07-1993

Reported in : 1993WLN(UC)95

Judge : B.R. Arora, J.

Appeal No. : S.B. Civil Writ Petition No. 48 of 1993

Appellant : Nemi Chand

Respondent : The State of Rajasthan

Disposition : Petition allowed

Judgement :

B.R. Arora, J.

1. The petitioner, by this writ petition, has challenged the order dated 19-12-92 (Annexure. 4), passed by the Superintending Engineer, public Health and Engineering Department, Circle Pali, by which a penalty of withholding of three annual grade increments with cumulative effect was imposed upon the petitioner in a departmental enquiry held against him under Rule 17 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (for short, 'the C.C.A. Rules, 1958').

2. The petitioner was working as the Upper Division Clerk in the public Health and Engineering Department at Sojat (district Pali). A departmental enquiry was initiated against him under Rule 17 of the C.C.A. Rules, 1958. After holding the enquiry, the Disciplinary Authority imposed on the petitioner the penalty of stoppage of three annual grade increments with cumulative effect by its order dated 19.12.92 (Annexure. 4). The punishment of withholding of three annual grade increments with cumulative effect is a major penalty which can be imposed only in an enquiry initiated under Rule 16 of the C.C.A. Rules, 1958, and not in an enquiry conducted under Rule 17 of the CC.A. Rules, 1958. In the present case, the petitioner was served with a notice under Rule 17 of the C.C.A. Rules, 1958, and the enquiry was held against him under Rule 17 of the C.C.A. Rules, 1958, but the penalty of stoppage of three annual increments with cumulative effect was imposed by the Disciplinary Authority in the enquiry. The penalty of stoppage of three annual grade increments with cumulative effect imposed by the Disciplinary Authority, was, thus, totally wrong and illegal and has been ordered in clear violation of the procedure contained under the C.C.A. Rules, 1958. In view of the legal position, which is discernible from the various Division Bench judgments of this Court that the penalty of stoppage of grade increments with cumulative effect is a major penalty which cannot be imposed in an enquiry Rule 17 of the C.C.A. Rules, 1958, the order dated 19.12.92 (Annexure. 4) passed by the Superintending Engineer, P.H.E.D., Circle Pali, is ab initio void, and deserves to be quashed and set-aside. As the order dated 19.12.92 (Annexure. 4) is ab initio void, therefore, the petitioner can directly approach this Court in the writ jurisdiction instead of filing an appeal.

3. In the result, the writ petition, filed by the petitioner, is allowed. The order dated 19-12-92(Annexure. 4), passed by the Superintending Engineer, public Health and Engineering Department, Circle Pali, imposing the punishment of stoppage of three annual grade increments with cumulative effect is, therefore, quashed and set-aside. The respondents, if they so like, can proceed against the petitioner for imposing appropriate punishment or for holding an enquiry in accordance with law.