

**Rameshwarlal Vs. State and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/767273](http://sooperkanoon.com/767273)

**Court :** Rajasthan

**Decided On :** Feb-24-1995

**Reported in :** 1995(1)WLN640

**Judge :** J.R. Chopra and; P.K. Palli, JJ.

**Appeal No. :** D.B. Civil (Writ) Sepecial Appeal No. 176 of 1987

**Appellant :** Rameshwarlal

**Respondent :** State and ors.

**Judgement :**

**P.K. Palli, J.**

1. This appeal is directed against the judgment of learned Single Judge dated Feb. 27,1987 whereby the removal of the petitioner by the Corporation was upheld and the relief for quashing the order Annex. 1 & 2 dated April 11.1983 and March 30,1982 respectively was refused but he was held entitled to subsistence allowance for the period he remained suspended from Nov. 5,1977 to March 30,1982, the date of the termination of his service vide Annex. 2. The facts necessary for the disposal of this appeal briefly stated are that the petitioner who was working as a U.D.C. in the office of Divisional Manager, R.S.R.T.C. was transferred to Banswara vide an order No. 730 dated 16.9.76, in pursuance of which he put his joining report in the office on the table of somebody in the office

Divisional Officer, Banswara and left the head-Quarters without seeking any permission to leave the head-Quarter and did not join at Banswara till 4.11.1977 and therefore, he was suspended by the order dated 5.11.1977. Inside of the suspension order he did not remain at Banswara because it appears that he was not inclined to join at Banswara and therefore, after enquiry an order punishing him by the punishment of removal from service was passed which has been marked as Annex.2 and is dated 30.3.82 and charge-sheet has been marked as Annex.3 and appeal against the order was filed and that also came to be dismissed vide an order Annex. 1 dated 11.4.83. Aggrieved against this order of removal and the appellate order whereby the appeal of the petitioner was dismissed, he filed the writ petition. We do not propose to go into the merits of the case, in so far as whether he was supplied any copy of inquiry report and whether the appellate order is a speaking order or not. Actually Annex. is only an information of the appellate order, the appellate order has not been brought on the record and therefore, it is not known whether any speaking order was at all passed. Be that as it may, the only fault of the petitioner is that he did not remain at Banswara, although he submitted a joining report there and came to Banswara in order to comply the order dated 16.9.76. There are no allegation of dishonesty against him and therefore, the punishment of removal is too harsh and unjust in the facts and circumstances of this case. It is only a case of remaining absent from head-quarters without prior approval of the authority concerned. Some application of leave on medical grounds have been sent but the fact remains that he absented from duty without sanction and did not work at Banswara.

2. Keeping in view his long absence from duty i.e. 25.9.76 to 4.11.1976, we are inclined to hold that the ends of justice would be met if he is punished with the stoppage of three grade increments with cumulative effect and is further deprived of the salary of the period during which he remained absent and has not served the department, after the removal order.

3. Accordingly, the appeal is Partly allowed, the order of removal Annex.2 dated 30.3.82 and the appellate order dated 11.4.83 is hereby quashed and the petitioner is ordered to be reinstated in service. He is made disentitled to get payment of any backwages on account of his intentional absence without seeking

formal approval and is further visited with the punishment of stoppage of three grade increment with cumulative effect. However, this period of absence be the date on which he was removed from service and he is taken back on duty will count for his pension and other retiral benefits. He must report on duty before the Chief Manager, Banswara from where he was removed within a period of 4 weeks from today. If he does not report then the department will not be obliged to take him back on duty.'

4. The special appeal stands disposed of accordingly.

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