



HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT JAIPUR

S.B. Civil Writ Petition No.10644/2015

Rajesh Kumar Nischal son of Shri Prem Kumar aged about 47 years, resident of 434 B-1, Scheme No.2, Lajpat Nagar, Alwar

-----Petitioner

Versus

1. State of Rajasthan through its Secretary, Secondary Education Department, Government of Rajasthan, Government Secretariat, Jaipur.
2. Director, Secondary Education, Rajasthan, Bikaner.
3. Joint Secretary, Group II Education Department, Government Secretariat, Jaipur.

----Respondents

For Petitioner(s) : Mr. Pawan Sharma for
Mr. Ashok Bansal

For Respondent(s) : Ms. Anjum Parveen Salawat for
Ms. Namita Parihar, Dy. GC

JUSTICE ANOOP KUMAR DHAND

Order

26/03/2025

1. Aggrieved by the impugned orders dated 18.09.2013 and 07.01.2015 passed by the respondents by which the petitioner has been punished with the penalty of censure, the petitioner has preferred the present writ petition.
2. Learned counsel for the petitioner submits that a charge-sheet under Rule 17 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short, 'the Rules of 1958') was served upon the petitioner with the charge that the result of Board Examination of Class 12th remained below the standard fixed by the respondents. Learned counsel submits that there was no commission or omission on the part of the petitioner due to



which the result remained below the standard fixed by the respondents. Learned counsel submits that there were several reasons for the aforesaid result, hence under these circumstances, the impugned orders are not sustainable in the eye of law. In support of his contentions, he has placed reliance upon the judgments passed by this Court at Principal Seat, Jodhpur in the case of **Shailendra Kumar Bhatt Vs. State of Rajasthan & Others**; S.B. Civil Writ Petition No.2250/2013 decided on 20.05.2013 and in the case of **Dharamveer Vs. State of Rajasthan and Ors.**, reported in **2005(5) RDD 1219 (Raj.)**.

3. Learned counsel for the State-respondent opposed the arguments raised by counsel for the petitioner and submitted that result of Class 12th Board examination remained below the standard prescribed by the Education Department due to slackness and carelessness of the petitioner. Learned counsel submits that, under these circumstances, no illegality has been caused by the respondents in passing the orders impugned, hence, interference of this Court is not warranted.

4. Heard and considered the submissions made at Bar and perused the material available on record.

5. Perusal of the record indicates that the petitioner was subjected to departmental inquiry under Rule 17 of the Rules of 1958, wherein the charge against the petitioner was that the result of Class 12th in the subject Chemistry remained below the standard fixed by the Department of Education. After holding an inquiry, the petitioner has been punished with penalty of censure. The petitioner preferred an appeal against the impugned orders, however, the same was also rejected. Perusal of the impugned





orders indicates that it is apparently a non-speaking and unreasoned order and it nowhere mentions as to how the petitioner was responsible for the result being lower than the standard norms fixed by the respondents.

6. This fact is not in dispute that the controversy involved in this petition has already been set at rest by the Co-ordinate Bench of this Court in the case of **Dharamveer** (Supra) wherein the facts were almost identical and the same was decided with the following observations and directions:-

“The allegation levelled against the petitioner is that in the educational session of 1998-99, result of the students of the school where the petitioner was teaching in the subject of Science remained below the standard settled by the Education Department. In memorandum dt. 07.12.2000 issued by the Deputy Director, Secondary Education, Bikaner (Churu), it is nowhere stated that the result of the school in specific subject remain below the standard settled by the Education Department due to slackness, carelessness or due to some act of commission or omission on the part of the petitioner. It is well settled that to constitute misconduct in a service, there must be commission or omission of some act on the part of the employee. Beside this, charge should be specific and must be without any ambiguity. The allegation of misconduct must be based on specific acts, deeds or omission of the employee. In absence of it, the charge shall be vague. The charge levelled against the petitioner is not at all specific, as such the same is vague.”

7. In the instant case also, there was no allegation that the result of the concerned school dropped due to commission or omission on the part of the petitioner. The result remained below the norms fixed by the Department of Education, may be for several reasons and without arriving at a finding that the result came down due to commission or omission on the part of the





petitioner, the petitioner could not have been penalized under Rule 17 of the Rules of 1958. Hence, impugned orders dated 18.09.2013 and 07.01.2015, passed by the respondents, are not tenable in the eye of law and the same are liable to be quashed and set aside and is hereby quashed and set aside.

8. Accordingly, the writ petition stands allowed.
9. Stay application as well as all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

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