



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 24055/2017

Azhar Javed S/o Shri Abrar Ahmed, aged about 28 years, R/o Plot No. 11 & 12 Behind Aakashwani, Sawai Madhopur, Rajasthan. At Present Teacher Level-II, Government High Primary School, Banda, Sawai Madhopur, Rajasthan

----Petitioner

Versus

1. State of Rajasthan through its Principal Secretary, Education Department, Govt. of Rajasthan, Govt. Secretariat, Jaipur
2. The Principal Secretary, Panchayati Raj Department, Govt. Of Raj., Jaipur.
3. Director, Elementary Education, Govt. of Rajasthan, Bikaner.
4. District Education Officer, Elementary Education, Sawai Madhopur Raj.
5. Block Elementary Education Officer, Sawai Madhopur Raj.

----Respondents

For Petitioner(s) : Mr. Hemant Taylor

For Respondent(s) : Mr. G.K. Sharma-Addl.G.C.

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND

Order

03/09/2024

1. The instant writ petition has been filed against the impugned order dated 30.11.2017 passed by the respondents by which an order of censure has been passed against the petitioner.
2. Counsel for the petitioner submits that a chargesheet 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 8th remained below the standard fixed by the respondents. Counsel submits that only on this count, the impugned punishment order has been passed against the petitioner. Counsel submits that an unexpected result cannot be a reason for issuing chargesheet and the candidates like the petitioner cannot be punished with such penalty. 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**; 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.)**. Counsel submits that as per the ratio propounded by the Co-ordinate Bench of this Court in the above matters, the impugned punishment order imposed upon the petitioner is not tenable in the eye of law and the order impugned be quashed and set aside.

3. Learned counsel for the State-respondent opposed the arguments raised by counsel for the petitioner and submitted that result of Class 8th Examination remained below the standard prescribed by the Education Department due to slackness and carelessness of the petitioner. Counsel submits that under these circumstances, no illegality has been caused by the respondents in passing the order 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 a chargesheet under Rule 17 of the Rules of 1958 along with a memorandum of charge was





served upon the petitioner with the charge that he has failed to meet with the expected standard of result of the students of Class 8th and the same remained below the fixed standard i.e. 40% provided by the Department of Education. The above finding was recorded against the petitioner as a misconduct and a penalty has been imposed against the petitioner vide impugned order dated 30.11.2017 by which an order of censure has been passed against the petitioner. This fact is not in dispute that the controversy involved in this petition has already been set at rest by the Coordinate 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.”



6. The judgment passed by the Co-ordinate Bench of this Court in the case of Dharamveer (Supra) was further followed in the case of **Shailendra Kumar Bhatt** (Supra) and the Co-ordinate Bench has taken the similar view.

7. In the instant case also there was no allegation that the result of the school concerned was lowered down 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, the impugned order dated 30.11.2017, passed by the respondents, is not tenable in the eye of law and the same is 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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