



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 16015/2024

Dinesh Kumar S/o Shri Ram Lal, Aged About 31 Years, Resident
Of 164, Vishnoiyo Ki Dhani, Rampura, Post Chitalwana, District
Jalore, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary,
Department Of Education, Government Of Rajasthan,
Secretariat, Jaipur.
2. The Director, Secondary Education, Bikaner.
3. The District Education Officer, (Headquarters), Secondary
Education, Jalore.

-----Respondents

For Petitioner(s)	:	Mr. Lokesh Mathur
For Respondent(s)	:	Mr. SS Ladreacha, AAG assisted by Mr. DS Pidiyar

JUSTICE DINESH MEHTA

Order

03/01/2025

1. Instant writ petition lays challenge to the order dated
26.07.2024, whereby the petitioner has been dismissed from
services by the District Education Officer (Headquarters),
Secondary Education, Jalore.
2. Mr. Lokesh Mathur, learned counsel for the petitioner
submitted that the petitioner was a Junior Assistant (Clerk Grade-
II) with the respondents and he was placed under suspension on
15.05.2019. A charge-sheet came to be served upon him by way
of memorandum of charges dated 28.05.2020.



3. The Inquiry Officer in turn concluded the inquiry and submitted inquiry report dated 17.05.2022 (Annexure-11).

4. The competent disciplinary authority thereafter, purportedly issued a notice proposing punishment, whereafter a final order dated 26.07.2024 has been passed and petitioner has been dismissed from services.

5. Mr. Lokesh Mathur, learned counsel invited Court's attention towards the memorandum of charges dated 28.05.2020 and inquiry report dated 17.05.2022 and navigated the Court through the order of dismissal dated 26.07.2024 in order to highlight that the reasons which prevailed in the mind of the disciplinary authority while dismissing the petitioner from services were not the ones which were found by the Inquiry Officer.

6. Inviting Court's attention towards the concluding part of the impugned order dated 26.07.2024, learned counsel submitted that it is a clear case of non-application of mind inasmuch as neither in the memorandum of charges nor in the disciplinary proceedings, any charge against the petitioner in relation to appearing as a dummy candidate in RPF SI Recruitment of 2018 was framed – no such finding has been recorded.

7. He submitted that the order impugned being clearly contrary to facts and law, deserves to be quashed and set aside.

8. Mr. Ladrecha, learned counsel appearing on behalf of the State submitted that the disciplinary authority has taken into account the inquiry report and the relevant facts. He submitted that the stipulation regarding petitioner appearing as dummy candidate is an inadvertent error, else the finding in relation to



petitioner's guilt has been clearly recorded and noticed by the disciplinary authority.

9. He argued that the impugned order does not call for any interference.

10. Heard learned counsel for the parties and perused the record, including the inquiry report and the order impugned dated 26.07.2024, whereby the petitioner has been dismissed from services.

11. A simple look at the charge-sheet and inquiry report reveals that charges against the petitioner were that of remaining absent from the duty without sanctioned leave and concealment of fact of arrest in a criminal case, which was registered against him under sections 419, 420 and 120-B of the Indian Penal Code, 1860 read with sections 3, 4, 5 and 6 of the Rajasthan Public Examination (Prevention of Unfair Means) Act, 1992 and sections 43, 66, 66D, 72 of the Information Technology Act, 2000.

12. A perusal of the memorandum of charges, particularly charge No.3 thereof gives an indication about the petitioner's involvement in some criminal case but such charge is only in relation to the fact that he did not inform the authority about his arrest whereas, the disciplinary authority has recorded a finding of his guilt of appearing as dummy candidate in RPF SI Recruitment, 2018.

13. In the opinion of this Court, when there was no charge in the memorandum of charges relating to petitioner's involvement as a dummy candidate and charge No.3 was only in relation to concealment from the respondents of his arrest in a criminal case, the disciplinary authority could not have proceeded on assumption



of his guilt of appearing as a dummy candidate, more particularly, when neither the charge-sheet nor the inquiry report suggested the same.

14. A look at the order impugned clearly demonstrates that the competent authority has not appreciated the factual matrix in its correct perspective and has simply proceeded on the assumption that the petitioner has appeared as a dummy candidate.

15. The impugned order dated 26.07.2024 being contrary to facts and law, is hereby quashed and set aside.

16. The disciplinary authority is directed to pass a fresh order after considering the facts on record, in its correct perspective within a period of four weeks from today.

17. Needless to observe that consequent to quashment of punishment order dated 26.07.2024, petitioner shall be deemed to be in service. Petitioner's services shall finally be governed by the fresh order to be passed by the disciplinary authority.

18. The writ petition stands allowed as indicated above.

19. Stay application also stands disposed of, accordingly.

(DINESH MEHTA),J

6-raksha/-