

Pramod Kumar Vs. State of Uttar Pradesh and Others

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Court : Allahabad

Decided On : Feb-21-2000

Reported in : 2000(2)AWC1214; [2000(85)FLR222]; (2000)1UPLBEC851

Judge : M. Katju and ;D.R. Chaudhary, JJ.

Appeal No. : C.M.W.P. No. 45387 of 1999

Appellant : Pramod Kumar

Respondent : State of Uttar Pradesh and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : W.H. Khan and; S.P. Singh, Advs.

Judgement :

M. Katju and D.R. Chaudhary, JJ.

1. This writ petition has been filed for quashing the impugned order dated 14.10.1999 (Annexure-1 to the petition) so far as it is against the petitioner and for quashing the adverse annual remarks for the year 1996-97 [Annexure-2 to the petition).

2. We have heard learned counsel for the parties.

3. The petitioner was selected as Deputy Superintendent of Police in the 1989 Batch. He was given an adverse entry for the years 1996-97 vide Annexure-2 to the petition. In that entry, it was stated that he does not take interest in his work. Against that entry he made a representation which was rejected by order dated 14.10.99. However, it appears that he had been given an entry in the year 1996 by the then Commandant 41 PAC Battalion to the effect that he takes interest in his work and his Integrity was certified vide Annexure-3 to the petition. He was also given good entries in subsequent years vide Annexure-3. As regards the adverse entry, he made a representation vide Annexure-5 to the petition. It is alleged in paragraph 6 to the petition that the Director General of Police whom the representation was made called for comments from the respondent No. 3 and the Director General of Police found that there was no Justification for the adverse annual remarks against the petitioner and the entry was not Justified. True copy of the report of the Director General of Police dated 26.4.99 is Annexure-6 to the petition. In his order the Director General of Police observed that there was no basis for withholding the petitioner's integrity and there was no material for giving the adverse entry. In view of this order, the respondent No. 1 allowed the petitioner's representation with regard to the withholding of Integrity but maintained the rest of the remarks against the petitioner. The petitioner's grievance is that in view of this entry, his chances of promotion will be affected.

4. A counter-affidavit has been filed and we have perused the same. In paragraph 5 of the same, it is stated that petitioner was also awarded an adverse entry for the year 1998-99 which was concealed by him although the said entry was communicated to the petitioner vide letter dated 27.9.99. In paragraph 14 of the counter-affidavit it is stated that the petitioner is not eligible for the post of Deputy Superintendent. Senior Scale. A counter-affidavit has also been filed by Sri R.8. Singh Commandant RTC Chunar and In paragraph 3 of the same. It has been stated that the petitioner has not yet been confirmed as Deputy Superintendent and hence he cannot be considered for promotion to the Senior Scale. In paragraph 4 of the same, it has been stated that adverse remarks for the year 1998-99 were communicated to the petitioner. True copy of which has been annexed as Annexure-CA 1 to the affidavit.

5. A rejoinder-affidavit has been filed and in paragraph 6 of the same, it is stated that there was no concealment regarding entry for the year 1998-99. In fact that entry is not an adverse entry. Copy for the entry 1998-99 has been annexed as Annexure-Ra 1 and in our opinion, it does not amount to an adverse entry, rather it is a good entry.

6. Annexure-3 to the writ petition is concerned various annual remarks given to the petitioner, which show that his working has been good right upto 1999. In fact the entry of the Senior Superintendent of Police, Allahabad dated 23.4.99 shows that the petitioner's work has been good and he has taken keen interest in his work. We cannot understand how the Impugned order dated 14.10.99 was passed after the Director General (Health) observed that there was no basis or material for awarding adverse entry to the petitioner. When the Director General himself has observed that there is no material against the petitioner, it is not open for any authority to hold otherwise except by giving cogent reasons and mentioning the material. In fact, the order dated 14.10.99 does not give any proper reason and does not pay adequate notice to the order of the Director General dated 26.4.99 that there was no material against the petitioner. If the State Government wanted to uphold the adverse entry of 1996-97. Then it should have mentioned the material against the petitioner in the order dated 14.10.99, but that has not been done. All that has been said in the order dated 14.10.99 is that the petitioner has not said anything due to which the adverse entry could be deleted. In fact this does not amount to disclosing any material against the petitioner.

7. Moreover, the petitioner has earned good entries vide Annexure-3 to the petition after 1996. It has been held by this Court in *S.P. Mishra v. Registrar, High Court*. 1999 ACJ 927, that sweeping adverse entries without giving particulars should not be awarded. It is also held in *Shiv Prasad Srivastava v. Registrar, High Court*. 2000 (II) ESC 396, that the purpose for giving adverse entry is not to mar future prospect of an officer but to make him alert. We agree with the decision in *Shiv Prasad Srivastava's* case (supra) as well as in *S. P. Mishra's* case.

8. For the reasons given above the petition is allowed.

The Impugned order dated 14.10.99 and adverse entry for 1996-97 is quashed.

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