

Om Pal Singh Vs. District Development Officer, Ghaziabad and Others

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Court : Allahabad

Decided On : Apr-21-2000

Reported in : 2000(3)AWC1909; [2000(85)FLR775]; (2000)2UPLBEC1591

Judge : V.M. Sahai, J.

Appeal No. : C.M.W.P. No. 20581 of 1998

Appellant : Om Pal Singh

Respondent : District Development Officer, Ghaziabad and Others

Advocate for Def. : S.C. and ;S.N. Srivastava, Adv.

Advocate for Pet/Ap. : Vinod Sinha, Adv.

Judgement :

V.M. Sahai, J.

1. The petitioner was appointed on a Class-IV post in June, 1991 by Principal, Regional Institute of Rural Development. Rampur Maniharan, Saharanpur. In 1992 the petitioner was transferred and posted at Regional Institute of Rural Development, Dadri. Ghaziabad (now District Gautam Budh Nagar). In 1997 the petitioner was given an adverse entry for going on leave. He filed a representation against it making allegations against respondent No. 5. He also resisted his posting at the residence of respondent No. 4. On 27.11.1997 the respondent No. 4

issued a notice to petitioner and called for his explanation about reports from office that his work was not satisfactory. It was also mentioned that he misbehaved with employees under influence of liquor. It was also alleged that a sum of Rs. 1,800 given to him for distribution to trainees at Bhojpur was not handed over to officer. On 3.12.1997 the petitioner gave his explanation and denied every allegation. The respondent was not satisfied with the explanation and he issued a charge-sheet on 27.4.1998. And an enquiry officer was appointed on 1.5.1998. The enquiry officer on 14.5.98 wrote a letter to the petitioner informing him that he has been appointed enquiry officer and if the petitioner wants to say anything, he may inform in writing so that enquiry proceedings be completed. The petitioner on 16.5.98 submitted his reply to the letter dated 14.5.98 mentioning that he has already submitted the reply to the charge-sheet and it may be treated as his reply and he has nothing further to say. Thereafter, the enquiry officer submitted his report on 4.5.1998. The respondents did not give a copy of the enquiry report nor issued any show cause notice to the petitioner. By order dated 29-5.98 passed by respondent No. 2, petitioner has been dismissed from service. It is this order of dismissal dated 29.5.98 Annexure-16 to the writ petition, which has been challenged by petitioner in the instant writ petition.

2. I have heard Shri Vinod Sinha learned counsel for the petitioner and Shri S. N. Srivastava learned standing counsel for the respondents.

3. Learned counsel for the petitioner has urged that no opportunity of hearing was given by the enquiry officer to the petitioner nor any date was fixed by the enquiry officer. Copy of enquiry report was not given to the petitioner. The disciplinary authority did not issue show cause notice to the petitioner after receiving the copy of enquiry report and the impugned dismissal order has been passed by the respondents against the petitioner in violation of principles of natural justice. On the other hand, learned standing counsel has produced the records and has supported the impugned order. He urged that principles of natural justice was complied with. He placed reliance on letter of the petitioner dated 16.5.98 wherein the petitioner has written that since he has already submitted his reply to the charge-sheet, nothing more is to be stated by him.

4. The charge-sheet was issued to the petitioner on 27.4.98 to which the petitioner submitted a reply on 29.4.98. Enquiry officer was appointed on 1.5.98. The enquiry officer wrote a letter to the petitioner on 14.5.98 that in case petitioner wants to say anything In defence, he may say so in writing so that enquiry proceedings be completed. The petitioner submitted his reply on 16.5.98 stating that he has already submitted his reply to the charge-sheet and It may be treated as his reply. He has nothing more to say. Thereafter, the enquiry officer completed the enquiry proceedings without fixing any date for evidence or for examination of witnesses. He submitted his report on 21.5.98. The letter dated 14.5.98 by the enquiry officer and reply of the petitioner dated 16.5.98 did not absolve the enquiry officer from holding the enquiry proceedings. In accordance with the principles of natural justice. The record produced by standing counsel establishes that no date was fixed by the enquiry officer after letter dated 14.5.98 was replied by petitioner on 16.5.98. The charges against the petitioner were factual. They were denied by the petitioner. Therefore, it was incumbent for the enquiry officer to have examined witnesses in support of the charges and record finding that they were proved. It was obligatory to afford opportunity of hearing to petitioner to defend the charges. He was required to fix dates for holding enquiry proceedings. Even if the petitioner would not have appeared, the charges could be held proved only after examination of witnesses and production of record to support the allegations. In absence of any date fixed by the enquiry officer for holding enquiry proceedings, the entire enquiry proceedings were vitiated. They were carried out in violation of principles of natural justice. The disciplinary authority too after receiving the report of the enquiry officer neither gave a copy of the enquiry report to the petitioner nor issued any show cause to the petitioner and passed the order of dismissal on 29.5.98. The entire enquiry proceedings and the dismissal order passed by the respondents on the basis of such an enquiry report cannot be upheld.

5. For the reasons stated above, the writ petitioner succeeds and Is allowed. The impugned dismissal order dated 29.5.98 passed by respondent No. 2 Annexure-16 to the writ petition is quashed with all consequential benefits of service to the petitioner. The respondents are directed to reinstate the petitioner in service and pay his entire arrears of salary within a period of two months from the date a certified copy of this order is produced before respondent No. 2.

6. The petitioner shall be entitled to his costs.

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