

Ram Kumar Singh Vs. U.P. Pollution Control Board and ors.

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Court : Allahabad

Decided On : Nov-20-2008

Reported in : 2009(2)AWC1439

Judge : U.K. Dhaon and ;V.D. Chaturvedi, JJ.

Appellant : Ram Kumar Singh

Respondent : U.P. Pollution Control Board and ors.

Advocate for Pet/Ap. : Sri. Salil Kumar Srivastava

Judgement :

ORDER

U.K. Dhaon and V.D. Chaturvedi, JJ.

1. Heard Sri Mohd. Arif Khan, senior advocate, assisted by Sri Salil Kumar Srivastava, learned Counsel for the petitioner and Sri Sudhir Pande, learned Counsel for the opposite parties.

2. The petitioner being aggrieved by the punishment order dated 9.2.2007 and the enquiry report dated 15.1.2007 has filed the instant writ petition.

3. The brief facts of the case are that the petitioner while posted at N.O.I.D.A. as Regional Officer/Environmental Engineer was placed under suspension by the order dated 17.2.2006. The Additional Director, Central Pollution Control Board

was appointed as the Enquiry Officer by the order dated 22.3.2006. A charge-sheet dated 9.6.2006 containing 12 charges was served upon the petitioner. The petitioner, thereafter submitted his reply to the charge-sheet on 27.6.2006. The petitioner was required to appear before the Enquiry Officer on 20.11.2006 at Central Pollution Control Board, Delhi.

4. Learned Counsel for the petitioner submits that no effort was made by the Department to prove the charges levelled against the petitioner by leading any evidence and on the basis of the High Power Committee recommendation an enquiry report dated 15.1.2007 was submitted by the Enquiry Officer on the basis of which the impugned punishment order dated 9.2.2007 was passed, which is legally not sustainable. He further submits that the impugned punishment order is in violation of the principles natural justice. He has relied upon a decision of Hon'ble Supreme Court in the case of Vice-chancellor, Banaras Hindu University and Ors. v. Shrikant : AIR 2006 SC2304 .

5. The learned Counsel for the opposite parties submits that there is no illegality or infirmity in the impugned punishment order.

6. We have considered the submissions made by the learned Counsel for the parties and gone through the record.

7. It is admitted case of the parties that the petitioner while posted at N.O.I.D.A. as Regional Officer/Environmental Engineer was placed under suspension by the order dated 17.2.2006. The Additional Director, Central Pollution Control Board was appointed as the Enquiry Officer by the order dated 22.3.2006. A charge-sheet dated 9.6.2006 containing 12 charges was served upon the petitioner. The petitioner, thereafter submitted his reply to the charge-sheet on 27.6.2006. Admittedly, no effort was made by the Department to prove the charges levelled against the petitioner by leading any evidence and on the basis of the High Power Committee recommendation, an enquiry report dated 15.1.2007 was submitted by the Enquiry Officer on the basis of which the impugned punishment order dated 9.2.2007 was passed. It is settled law of this Court that after submission of the reply by the delinquent officer to the charge-sheet an oral enquiry is a must. The impugned punishment order is in violation of the principles of natural Justice.

8. Hon'ble the Supreme Court in the case of Basudeo Tiwary v. Sido Kanhu University (1998) 8 SCC 194, has held as under:

The law is settled that non-arbitrariness is an essential facet of Article 14 pervading the entire realm of State action governed by Article 14. It has come to be established, as a further corollary, that the audi alteram partem facet of natural justice is also a requirement of Article 14, for natural justice is the antithesis of arbitrariness. In the sphere of public employment, it is well-settled that any action taken by the employer against an employee must be fair, just and reasonable which are the components of fair treatment. The conferment of absolute power to terminate the services of an employee is an antithesis to fair, just and reasonable treatment. This aspect was exhaustively considered by a Constitution Bench of this Court in Delhi Transport Corporation v. D.T.C. Mazdoor Congress.

9. In the result, the writ petition succeeds and is hereby allowed. The impugned punishment order dated 9.2.2007 and the enquiry report dated 15.1.2007, the copies of which has been annexed as Annexures-1 and 8A to the writ petition are hereby quashed. However, it will be open for the opposite parties to hold a fresh enquiry, in accordance with law, from the stage reply to the charge-sheet was submitted.

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