

State of U.P. and ors. Vs. State Public Services Tribunal and ors.

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Court : Allahabad

Decided On : Jul-26-2005

Reported in : [2005(106)FLR1010]

Judge : Amitava Lala and ;Sanjay Misra, JJ.

Appellant : State of U.P. and ors.

Respondent : State Public Services Tribunal and ors.

Judgement :

Amitava Lala and Sanjay Misra, JJ.

1. Upon going through the judgment and order passed by the Tribunal and paragraph Nos. 30 and 31 of the judgment in *Managing Director, Ecil, Hyderabad and Ors. v. B. Karunakar and Ors.* 1993 (67) FLR 1230 (SC), we are of the view that the matter is to be remitted back to the Tribunal for considering the points once again before coming to the conclusion as to whether the punishment would be disproportionate or not and what would be the punishment and whether at all any punishment would be given.

2. The attack of the writ petitioner is in two folds. Firstly, non-supply of preliminary report is not violation of principle of natural justice and secondly, factually when four witnesses were called to establish before the Enquiry Officer about the absenteeism of delinquent no violation of principles of natural justice is caused in

the enquiry proceedings. Since the factum of second, point is factually based, as available from paragraph 5 of the enquiry report (page 79 of the paper book), we are of the view that decision on such point should not be taken by the Tribunal. So far as the preliminary enquiry is concerned, the contention of the learned Standing Counsel is that supply of the same is unnatural expansion of natural justice. He contended that enquiry should be proceeded on a particular point of time and for any reason whatsoever any paper or document in connection with such proceedings is not supplied then there might be a question of non-supply of the materials. But preliminary enquiry is a confidential enquiry by the department much prior to the proceedings to which the delinquent has nothing to say since he got opportunity to defend his case as in the show cause by filing reply and by representing the case before the enquiry officer. Therefore, such point is also not sustainable and Tribunal is correct in holding the same.

3. Therefore, taking into totality of the matter, we are of the view that the order of the Tribunal cannot be sustainable and is, accordingly set aside and the matter is remitted to the Tribunal for consideration afresh. Thus, the writ petition stands disposed of. No order is passed as to costs.