

Rakesh Dhingra Vs. National Scheduled Castes and Scheduled Tribes Finance and Development Corporation

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Court : Delhi

Decided On : Apr-01-1997

Reported in : 1997IVAD(Delhi)111; 67(1997)DLT895; 1997(41)DRJ255

Judge : Dalveer Bhandari, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Civil Writ Petition No. 2177 of 1996

Appellant : Rakesh Dhingra

Respondent : National Scheduled Castes and Scheduled Tribes Finance and Development Corporation

Advocate for Pet/Ap. : R.K. khanna and; A.K. Wali, Advs

Judgement :

Dalveer Bhandari, J.

(1) The petitioner in this petition has prayed for quashing the order dated 14.12.1994 passed by respondent No. 3 imposing the penalty of removal from the service of the petitioner. The petitioner has also prayed that the order dated 14.3.1995 passed by the Board of Directors of respondent No. 4 and which was

communicated vide letter dated 24.3.1995 dismissing the appeal against order of removal be also quashed.

(2) The petitioner has also prayed that the inquiry report dated 26.5.1994 be quashed. The petitioner has also prayed that the order dated 6.8.1993 imposing censure penalty be also quashed.

(3) The petitioner has further prayed that the respondents be directed to quash the order of stoppage of two increments. He has also prayed that order dated 11.9.1991 be quashed by which he was divested of the charge of Finance Manager. He has also prayed that letters dated 6.8.1993 suspending the petitioner be quashed.

(4) The petitioner has also prayed that adverse entries made in the ACRs of 1991-92 communicated to the petitioner vide letter dated 3.5.1993 be quashed.

(5) The petitioner has also prayed that he be promoted from the date of interview dated 17.6.1993 to the post of Deputy General Manager (Finance) and he be also reinstated in service with continuity of service, with full backwages and all consequential benefits.

(6) The following charges were framed against the petitioner:

'ARTICLE-1 That the said Shri Rakesh Dhingra intentionally withheld a copy of his graduation (B.Com.) degree at the time of his appointment in Nsfdc and thereby claimed service experience of almost two years for working as an Accounts Trainee with M/s Aggarwal Bansal & Associates, Jhandewalan Market, New Delhi during the period 15.7.1976 to 25.5.1978, whereas he had completed his graduation only in the year 1977. Article - II That the said Shri Rakesh Dhingra submitted an experience certificate at the time of his appointment in Nsfdc for having worked as an 'Accountant' from 29.6.1978 to 31.1.1980 with a firm M/s Moon Enterprises whereas enquiries reveal that the said firm was not in existence at the stated time and place. ARTICLE-111 That the said Shri Rakesh Dhingra defied the lawful and reasonable order of his superior by not complying with the instructions issued to him vide Order No. NSFDC/21/89-Pers. dated 6.8.1993

whereby he was placed under suspension w.e.f. 6.8.1993 and advised to hand over all the files/documents key(s) of almirah(s) etc. under his custody to Shri Devanand, Assistant Manager (vigilance) immediately. ARTICLE-IV That the said Shri Rakesh Dhingra sent certain information and representations about restoration of his designation as Company Secretary-cum-Finance Manager, sanction of dual charge allowance to him; complaint alleging wrongful appointment of Dr. S.P. Ram in the Corporation; recording of his Acr as 'Outstanding' by Ex-GM(Finance); alleged denial of opportunity to him for appointment to the post of Dgm (Finance) and finally, his appeal against the suspension order, directly to the Board of Directors without any general or special order of the Competent Authority or routing the same through the Competent Authority. ARTICLE-V That the said Shri Rakesh Dhingra unauthorisedly enclosed a copy of an agenda note sent to him for submission before the Board of Directors with his Writ Petition filed against the Corporation and also quoted verbatim from a strictly confidential letter from the Cmd addressed to the Joint Secretary (SCD), Ministry of Welfare, Govt. of India in his writ petition. Article - Vi That the said Shri Rakesh Dhingra did not disclose at any stage either at the time of his appointment in the Corporation or even after his induction, the fact that there was a disciplinary case pending against him in his previous organisation i.e., Prudishly Industrial and Investment Corporation of U.P. Ltd. (PICUP) and the proceedings in the case were yet to be finalised. Shri Rakesh Dhingra by his above acts, furnished false information/certificate regarding his previous service, wilfully disobeyed a lawful and reasonable order of his superior, unauthorisedly communicated official documents and information and suppressed material facts at the time of his appointment in Nsfdc, thereby contravening Rule 5(4), 5(6), 5(20) and 11 of Nsfdc Conduct, Discipline and Appeal Rules, 1990..'

(7) In respect of aforesaid charges, a comprehensive departmental inquiry was conducted. The Inquiry Officer found the petitioner guilty of charges I, li, lii, Iv, V(i), Vi and article of Charge V(ii) has not been proved. The Inquiry Officer mentioned that the charges framed against the petitioner are direct and very simple in nature involving verification of documents and proving authenticity of details furnished through these documents.

(8) The counter affidavit has been filed on behalf of the respondents. In the counter affidavit preliminary objection has been taken that this petition is highly belated and has been filed after expiry of more than 14 months. The petitioner was placed under suspension on 6.8.1993 as the prima facie case of having furnished false information/certificate was made out against him. The departmental proceedings for imposition of a major penalty were initiated against him for furnishing false information/ certificate and other charges.

(9) It is stated in the reply that the petitioner was given the charge of Company Secretary, merely as a stop-gap arrangement because at that time no qualified Company Secretary was available with the respondent Corporation. It is stated that the Assistant Company Secretary was selected in July, 1994, however, no offer of appointment was sent to the said candidate as the departmental proceedings against the petitioner were not finalised till that time. It was only on 15.2.1995 that an offer of appointment was sent to the selected candidate when the departmental proceedings were finalised and he was removed from the service of the respondent Corporation. Since the selected candidates did not join, again the post of Company Secretary was advertised but despite the advertisement and relay telecast on Doordarshan, the post of Company Secretary could not be filled. The Petitioner's contention that the respondent deliberately did not take any action to fill the post, is incorrect. It is stated that this Court on 8.11.1996 directed that no appointment shall be made. That interim order was continued from time to time. It is submitted that the petitioner is no longer working with the respondent Corporation, therefore, the petitioner does not have legal right or claim against the said post in the respondent Corporation and that cannot be kept vacant for ever particularly in view of the penal provision of the Companies Act, 1956 as well as in the interest of the health of the Organisation.

(10) The petitioner denied all the charges and contested the authority of the disciplinary authority, and the Court to initiate the departmental proceedings. He was given copies of all the documents listed with the charge sheet. He was given one week's time to inspect some of the documents. He was directed to furnish the written statement in defense by October, 1993. The petitioner did not avail the opportunity of inspecting the documents requisitioned by him and nor furnished the

written statement giving his defense. Despite a large number of opportunities, the petitioner chose not to file a written statement.

(11) During the period October, 1993 to middle of March, 1994, the Petitioner wrote 22 letters (11 letters each addressed to Disciplinary Authority and the Inquiry officer) apart from one telegram, levelling number of allegations against the officials connected with the inquiry. Though the petitioner had enough time and good health for this purpose but did not have either time or good health for filing his written statement and facing the Inquiry. The Inquiry Officer adjourned the proceedings for 11 times after the management case, even then the petitioner chose not to participate in the crucial hearing of the inquiry proceedings. All through the proceedings the petitioner leveled false and frivolous allegations on all the officers and tried to side track the main, issues. The medical certificate furnished by him also does not justify his absence for the entire period. The conduct of the petitioner is abundantly proved by the following observation of the Inquiry Officer. In view of the above facts, Shri Dhingra was requested a number of times since the month of March, 1993 to produce some documentary proof about the existence of the firm at the relevant time and his association with the firm. He was also duly informed about the factual position revealed by our enquiries and given fairly ample and reasonable opportunity to produce any relevant documentary proof/evidence to establish the existence of the firm and his association with it. He was also requested to clarify the position as to how he was pursuing his M.Com classes as a regular student at Delhi and simultaneously continued with his job in M/s Moon Enterprises having its offices in Bullandshahar (U.P.) and Jaipur (Rajasthan). In spite of the ample and reasonable opportunity given to him, he did not come up with any satisfactory reply nor produce a single relevant document to establish the existence of the firm and his association with it. Rather, he always adopted an evasive, uncooperative and offensive attitude and tried to sidetrack the main issue by raising irrelevant queries and questioning the lawful and competent authority in conducting the enquiries into the matter. From the inquiry it is clearly established that: (a) the petitioner deliberately suppressed information regarding the year of passing B.Com examination. (b) It is also established that the certificates from period June, 1978 to January, 1980 were issued by a non-existent firm. Almost the entire period covered by this certificate

also coincide with the period of studies of the petitioner at M.Com. level at the Delhi University. It can be safely presumed that the petitioner perhaps did not have any plausible reply or defense so he chose to keep away from the inquiry at crucial stages.

(12) The petition has been filed belatedly after expiry of one year and two months. In the matter of this nature third party rights also intervene and for that reason also this petition can not be entertained.

(13) I have heard learned counsel for the parties and perused all the relevant documents on record. Despite number of opportunities, the petitioner chose not to participate during all the hearings of the inquiry proceedings virtually leaving no option for the Inquiry Officer but to proceed with the inquiry in absence of the petitioner. The charges have been proved on the basis of the documents.

(14) In my opinion this is not a fit case in which this Court should exercise its extraordinary jurisdiction under Article 226 of the Constitution. The writ petition and civil miscellaneous applications are accordingly rejected and disposed of.

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