

(2008) 01 AHC CK 0018
In the Allahabad High Court

Aligarh Development Authority and Others	APPELLANT
Vs	
State Public Services Tribunal and Others	RESPONDENT

Date of Decision : 16-01-2008

Acts Referred:

Citation : (2008) 117 FLR 271

Hon'ble Judges : Yatindra Singh, J;Ran Vijay Singh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Yatindra Singh and Ran Vijay Singh, JJ.—Sri Bal Kishan Garg was a Junior Engineer (Technical) in the Aligarh Development Authority, he was given a charge-sheet on 18th October, 1988 levelling three charges against the contesting respondent. He filed his reply on 20th December, 1988. The Enquiry Officer found that charge Nos. 1 and 3 to be proved and 2 to be partly proved. The enquiry report was submitted on 20th February, 1989.

2. The contesting respondent sent a letter dated 7th April, 1989 to the Vice-Chairman, Aligarh Development Authority admitting his guilt and requesting that sympathetic view be taken. The vice-Chairman passed an order on 15th April, 1989 accepting the enquiry report but considering the letter given by the contesting respondent passed the following order:

- (a) Three annual increments be stopped.
- (b) Censure entry be made in his character roll.
- (c) The contesting respondent will not be entitled to get any salary during-, the period of suspension.

3. The contesting respondent filed an appeal. It was decided on 5th March, 1990. The appellate authority confirmed the punishment order but so far as nonpayment of salary for the suspension period was concerned the Vice Chairman was asked to pass fresh order after opportunity to the contesting

respondent.

4. The -Vice Chairman asked notice to the contesting respondent, passed fresh order on 17th May, 1990 by denying him salary, during period of the-suspension.

5. The contesting respondent filed original application No. 251 (11)/1990 before the U.P. Public Services Tribunal (Tribunal) Lucknow which was allowed on 12.9.1997. The Tribunal held that the contesting respondent was given full opportunity to examine the documents, however, he was not given any opportunity to cross-examine the witness and as such the order is vitiated on this account.

6. The Tribunal on the basis of aforesaid findings allowed the application of the contesting respondent and quashed the order dated 15.4.1989 as well the order dated 5.3.1990 and ordered that the contesting respondent would be given his salary for the period of suspension. Hence, the present writ petition by the Authority.

7. This is the case where no witnesses were examined on behalf of the Authority. The petitioners in paragraph 13 of the writ petition have alleged that enquiry report was based on the documentary evidence and no oral evidence was produced/There is no specific denial of the same. In case no oral evidence was recorded then there was no question of giving opportunity to cross-examine the witnesses. In case the contesting respondent wanted to produce oral evidence then it was open to him to do so. He instead of producing evidence has requested that the lenient view be taken.

8. In view of above the order of the Tribunal is illegal and it is quashed. The orders dated 15th April, 1989, 5th March, 1990 and 17th May, 1990 are upheld. The writ petition is allowed.