
(1991) 05 MP CK 0013
In the Madhya Pradesh High Court
Case No : M.P. No. 5159 of 1989

Balram Singh

APPELLANT

Vs

Municipal Council

RESPONDENT

Date of Decision : 08-05-1991

Acts Referred:

Madhya Pradesh Employees (Recruitment and Conditions of Service) Rules, 1968 — Rule 53(3)

Citation : (1993) 1 LLJ 1003 : (1991) 2 MPJR 201 : (1992) 37 MPLJ 194 : (1992) MPLJ 194

Hon'ble Judges : P.N.S. Chauhan, J;K.M. Agrawal, J

Bench : Division Bench

Advocate : G.K. Soni, for the Appellant; Ravindra Shrivastava, for the Respondent

Final Decision : Allowed

Judgement

K.M. Agarwal, J.

By this petition under Article 226 of the Constitution, the petitioner is challenging the legality of suspension order dated May 7, 1987 (Annexure P-1) issued against him by the respondent.

It is stated in the petition that no departmental enquiry or criminal case is pending against him. According to him, while posted at Mahasamund as a Revenue Inspector, he was alleged to have been apprehended by Shri S.K. Verma, D.S.P. (Vigilance) while accepting bribe of Rs. 100/-. The petitioner was then transferred to Dhamtari. According to him, the amount of Rs. 100/- was paid to him by the complainant against the taxes due against him and accordingly he had informed his higher authorities. After expiry of more than 1 year and 2 months from the date of the alleged incident, the impugned order of suspension was passed against him, which is said to be illegal and against the service rules.

In its reply, the respondent has tried to support the impugned order of suspension by submitting that it was in pursuance of a directive (Annexure P-2) issued by the State Government on April 13, 1987 and because of registration of a criminal case against the petitioner. It was said to be justified under Rule 53(3) of the service rules.

Having heard the learned counsel for the parties, we are of the view that the impugned order of suspension deserves to be quashed. It is not disputed that the petitioner is governed by the Madhya Pradesh Municipal Employees (Recruitment and Conditions of Service) Rules, 1968. (in short, the "service rules"). Rule 531 deals with suspension and makes following provisions in that regard:

"53(1). If having regard to the nature of the charges and the circumstances in any case, the disciplinary authority which initiates any disciplinary proceeding is satisfied that it is necessary or desirable to place under suspension a municipal employee against whom such proceedings are started, it may pass an order placing him under suspension.

(2). A municipal employee who is detained in custody whether on a criminal charge or otherwise, for a period longer than forty-eight hours shall be deemed to have been suspended under this rule.

(3). A municipal employee against whom criminal charge is pending may, at the discretion of the disciplinary authority, be placed under suspension until the termination of the proceedings if the charge is connected with his position as a municipal employee or is likely to embarrass him in the discharge of his duties in the Council or involving moral turpitude:

Provided that in the case of a municipal employee on deputation to the municipal council, the disciplinary authority shall, without delay, inform the lending authority of the circumstances in which that employee was placed under suspension.

(4). A Municipal employee who is placed under suspension shall, during the period of such suspension, be entitled to receive payment as subsistence allowance of such amount as may be admissible to him according to the provisions contained in Chapter VII of the Fundamental Rules applicable to the Government servants."

A bare reading of the said provisions in the service rules would show that the petitioner could not be put under suspension in pursuance of any Government directive in that regard. The letter dated April 13, 1987 (Annexure P-2) of the State Government makes a mention of crime No. 86/1986 against the subject mentioned in the letter, but the letter does not show that any criminal case was pending against the petitioner in any Court. The learned counsel for the respondent submitted that the pending "criminal charge" referred in Rule 53(3) would include registration of an offence by the police and the general power of superintendence conferred on the State Government must include power to

direct suspension of any employee of a Municipal Council. We find no substance in the contention. Power of superintendence of the State Government cannot extend to the extent of putting or directing to put any employee under suspension in disregard of Rule 53 of the service rules and in service rules, we find no power to suspend an employee only on the basis of registration of an offence by the police. If such a power is inferred, any employee may be suspended even if the offence is registered by the police on the basis of a false report. Further, if such power was intended to be given, specific provision in that regard would have been made and there would have been no necessity for providing in Sub-rule(2) of Rule 53 that a municipal employee who is detained in custody on a criminal charge for a period longer than forty-eight hours shall be deemed to have been suspended under the rule. It is also not the case of the respondent that any departmental enquiry was initiated or pending against the petitioner. As stated earlier, the petitioner has made a specific statement that no criminal case or departmental enquiry is pending against him, which is not specifically denied by the respondent. We are, therefore, of the view that the impugned order of the suspension deserves to be quashed.

For the foregoing reasons, this petition succeeds and it is hereby allowed. However, in the circumstances of the case, we make no order as to costs of these proceedings.