
(1995) 03 AHC CK 0040

In the Allahabad High Court

Case No : Civil Miscellaneous W. P. No. 16143 of 1994

Bavindra Singh

APPELLANT

Vs

Suptd,of Police,Banda and Others

RESPONDENT

Date of Decision : 07-03-1995

Acts Referred:

Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991 — Rule 17

Citation : (1995) 03 AHC CK 0040

Hon'ble Judges : P.K.Mukherjee, J

Final Decision : Allowed

Judgement

Paritosh K. Mukherjee, J.—Having heard the learned counsel for both the parties, in my view this writ petition should not be kept pending for indefinite period.

2. It is the case of the petitioner that the petitioner availed of three days leave w. e. t. February 13, 1995 and during this leave period petitioner was in police station, and, the Superintendent of Police, Banda has passed an improper order of suspension in terms of Rule 17 of the U. P. Police Officials Subordinate Rank Rules, 1991, thereby he placed the petitioner under suspension, although the petitioner admittedly on that date was not duty.

3. Learned Standing counsel appearing for the respondents submits that enquiry was initiated by the aforesaid Superintendent of Police in respect of the conduct of the petitioner as is evident from paragraph 3 of the impugned order of suspension dated February 15, 1995, contained in Annexure1 to the writ petition.

4. Learned standing counsel further submitted that whether or not petitioner being the police officer, if is on leave, he is entitled to intervene if any disturbance is occurred in the police station between the individual citizens.

5. Having heard the submissions of both the parties and having considered the Rule 17 of the aforesaid Rules, I am of the view that indeed the Superintendent of Police, Banda is entitled to pass an order of suspension, if any enquiry is

contemplated, or, is proceeded, but, in the present case prima facie there was no material available before the authority concerned to initiate departmental proceedings against the petitioner for his alleged lapses during the period of leave i.e. on February 14, 1995, and, as such, in my view the respondent Superintendent of Police, Banda is not entitled to issue impugned order of suspension, which has been passed in most improper manner and the same is entitled to be interfered with.

6. Further on the point as raised by the learned counsel for the respondents that petitioner being on leave was liable to be responsible for the lapses occurred in the police station, this Court is unable to subscribe to the view advanced by the learned counsel, as the petitioner was admittedly on leave on the relevant date i.e. February 14, 1995.

7. Under the aforesaid circumstances, this Court is not prepared to allow the learned standing counsel to file counter affidavit as ex facie the order of suspension is liable to be set aside.

8. The impugned order of suspension dated February 15, 1995, contained in Annexure1 is accordingly set aside. Petitioner is entitled to rejoin his duties forthwith, on production of a certified copy of this order.

9. Writ petition succeeds and is allowed to the extent indicated above. However, there shall be no orders as to costs.