
(1987) 11 AHC CK 0059
In the Allahabad High Court
Case No : Petition No. 6059 of 1986

Bulaki Ram

APPELLANT

Vs

State of U.P., through the Secretary, Rural Development
Department, Govt. of U.P., Lucknow

RESPONDENT

Date of Decision : 03-11-1987

Acts Referred:

Citation : (1987) 11 AHC CK 0059

Hon'ble Judges : S.Saghir Ahmad, J and D.S.Bajpai, J

Final Decision : Allowed

Judgement

S. Saghir Ahmed, J.

1. The petitioner, who was compulsorily retired from service, has, by means of this petition filed under Article 226 of the constitution of India, challenged the order dated 31st July, 1986, contained in Annexure 2.

2. It may be stated that earlier an order dated 3rd July, 1986, contained in Annexure 1, was passed against the petitioner and he was compulsorily retired from service under F.R. 56 (C) but the opposite parties withdrew the said order during the pendency of writ petition No. 4942 of 1986 in which it was challenged. However by a subsequent order, contained in Annexure 2, the petitioner was again retired from service compulsorily. It is the subsequent order which is challenged in this petition.

3. It has been set out in the petition that the petitioner, during the course of his service was awarded three adverse entries out of which two of the entries, namely, the entries for the year 197879 and 198384 were not communicated and therefore, they could not have been taken into consideration for compulsorily retiring him from service. The third entry pertaining to the year 198283 was communicated to him vide order contained in Annexure 7, against which he had filed a representation but by an order dated 23.4.1986, communicated to him vide letter dated 6.5.1986, (contained in Annexure 15) the said representation

was rejected. The said entry, It is claimed, was not adverse and, therefore, it could also not have been considered for forming an opinion that the petitioner, having out lived his utility, was not fit to be continued in service in public interest.

4. Opposite parties, who are represented by the standing Counsel, have filed a counteraffidavit in which it is stated that the petitioner was retired service on the basis of the three adverse entries, namely, the entries for the year 197879. 198283 and 198384. The entry for the year 198182 of which a reference has been made in the petition was not treated to be adverse.

5. The petitioner has filed a rejoinder affidavit in which he has stated that the adverse entries for the year 197879 and 198384 were not communicated to him.

6. In compliance of the order passed by this Court, the Standing Counsel has produced before us the original service record. He has also placed before us the minutes of the screening committee in which it has been mentioned that the petitioner was retired from service on the basis of the adverse entries recorded in his character roll for the years 197879, 195283 and 198384.

7. The service record does not indicate that the adverse entries for the years 197879 and 198384 were communicated to the petitioner. The Petitioner has clearly stated on oath in his rejoinder affidavit that those entries were not communicated to him and since this fact is supported by the original service record which does not contain any indication, endorsement or evidence of communication, the said entries could not have been legally relied upon by the screening committee for forming an opinion, that the petitioner was to be retired from service in public interest. If these entries are excluded, we are left with only one entry, namely, the entry for the year 198283 regarding which a representation made by the petitioner was, as stated earlier, rejected on 23.4.1986.

8. Learned counsel for the petitioner has read out the adverse entry for the year 198283, It is in the following terms:

9. The basic entry has been recorded by the District Development Officer. This is followed by the entries of the A. D. M. (Project), the District Magistrate and the Commissioner all of whom have certified petitioner's integrity.

10. A perusal of the above entry indicates that the petitioner did not exercise effective control over his subordinates and, therefore, he could not bring about the expected progress in his region. The Additional District Magistrate in his entry says that although the petitioner had put in hard work, he could not achieve the target on account of his having not exercised effective control over his subordinates and the cooperation from the Bank not being available. It is contended that lack of effective control over his subordinates was not the sole reason for the petitioner in not achieving the target under the Intensive Rural Development Programme (IRDP) and that the noncooperation of the Bank was the other contributory factor which cannot be ignored in scrutinising and

analysing petitioner's performance.

11. The entry read as a whole would indicate that the petitioner had put in hard work but he could not achieve the target under the I.R.D.P. as necessary cooperation was not available from the Banks and he had failed to exercise effective control over his subordinates.

12. The purpose of compulsory retirement is to chop off the dead wood, to remove the inefficient and the dishonest and to get rid of the persons whose integrity has become doubtful and who have ceased to be of any value to public services.

13. Character Roll entries or the annual confidential reports made in the character Rolls are the mirrors in which the performance of a Government Servant is reflected. So also are the other relevant service records. It is, therefore, understandable that the decision to compulsorily retire an employee would be taken only after looking into the entire service records including the Character Roll entries in which a clear image of an inefficient or a dishonest employee or an employee who has ceased to have any interest in his work or who is fed up with the monotony (in his opinion) of his duties as a (government servant and has thereby earned the dubious distinction of being labelled as a ? dead wood?, is reflected. Such an image should be clear and sharp and should not suffer from the Rule of ?parallax error? or ?double image?

14. In the instant case the only entry with which we are left does not reflect a clear image which, we are constrained to say, suffers from the rule of double image.

15. The entry says that the petitioner had done hard work which itself is reflective of the interest that he took in his work. It is another matter that he could not achieve the target for which also two reasons, namely, that the cooperation from the Bank was not available and that he did not exercise effective control over his subordinates, have also been specified in the said entry. The entry, therefore, contains plus points in favour of the petitioner and the minus points against him. It is quite possible that lack of cooperation from the bank might have largely affected the nonachievement of the target under the Intensive Rural Development Programme or, may be, the other factor, namely, lack of control over the subordinates was the main contributory factor. It cannot be said with certainty which factor resulted in petitioner's failure to achieve the target, which he ought to have achieved as the entry itself shows that he had worked hard. It is, therefore, apparent that the petitioner's image reflected in the entry in question is not a clear and sharp image of an inefficient employee who has lost his utility. The benefit of such an entry must go to the employee rather than to the employer.

16. It may be stated that the petitioner was promoted to the post of Block Development Officer, Special Grade, in the scale of Rs. 8501720 by an order dated 3.9.1981 and was allowed to cross the Efficiency Bar by order dated

15.4.1982. If the record of service for the last ten years immediately preceding the year in which the petitioner was compulsorily retired was to be considered, the two factors, namely, that the petitioner was promoted and that he was allowed to cross the Efficiency Bar could not have been ignored.

17. For the reason stated above we allow the writ petition and quash the impugned order dated 31.7.1986 (contained in Annexure2) with all consequential benefits. There will be no order as to costs.