
(2001) 05 AHC CK 0021

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 5730 of 1991

Chandra Bhan Shukla

APPELLANT

Vs

The Secretary, Regional Cane Service Authority and Others

RESPONDENT

Date of Decision : 08-05-2001

Acts Referred:

Citation : (2001) 3 UPLBEC 2175

Hon'ble Judges : Sunil Ambwani, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sunil Ambwani, J.—Petitioner Chandrabhan Shukla while working as Seasonal Clerk as Sachiv," Sahkari Garma Vikash Samiti Limited, Ramkola (P) was served with show-cause notice on 7.12.1989 levelling specific charges of issuance of excess supply of tickets than the prescribed limit.

2. The petitioner submitted a reply on 20.12.1998 specifically stating that he has not committed any irregularity. In respect of Sri Pawan he stated that after the Cane Supervisor prepared the account of Sri Pawan and the report of credit was prepared he stopped issuing purchi. In respect of Sri Rajesh Kumar he stated that the account of 56 trolley was prepared in which 53 purchies were issued whereas old balance was about Rs. 53,000/- and in respect of Sri Shiv Saran it was found that remaining purchase was not adjusted and that the applicant was not informed about this any further. The petitioner made an application on 17.1.1990 that he cannot fully and eventually replied to the charges and that the copy of the enquiry report has not been given to him, and prayed for copy of report of the inquiry officer. He was given an opportunity of personal hearing on 17.1.1990. Date for hearing was fixed. The Zila Ganna Sahkari Samiti for the Society found the charges established and found that he was rightly kept in category "B". The petitioner filed an appeal which was dismissed on 8.1.1991. The petitioner has challenged the orders dated 9.3.1990 and 8.1.1991, which were stayed by interim order passed on 5.3.1991. Thereafter the petitioner was

allowed to join his service and has retired. It was made clear in the interim order that the authority shall be at liberty to proceed in accordance with law.

3. I have heard learned Counsel for the petitioner. Regulation 27 in Chapter IV of the U.P. Cane Co-operative Service Regulation, 1975, provides for disciplinary proceedings. The inquiry sought to be made is summary in nature and must be concluded expeditiously. Regulation 27 provides that in the event of a complaint the Secretary of the Union shall make a preliminary inquiry and in case a prima facie case is established against the person concerned, he shall intimate the same to him in the form of charges and call for his explanation, and upon examining the explanation he shall submit final report, with his recommendations to the Committee of Management of the Union for passing final orders in the case.

4. In the present case, the petitioner gave specific reply to the charges. He was not supplied with the copy of the inquiry report. The impugned order dated 8.1.1991 does not show that his reply to the charges were considered. It has not been stated as to which evidence or documents were required to be produced by him. It has been stated that he was asked certain questions at the time of personal hearing but he could not give satisfactory answer. The order does not show as to which of the question had not been replied by the petitioner. A conclusion drawn by the competent authority, therefore, that the charges are served and are established is not a conclusion drawn after considering the reply of the petitioner. He was handicapped in giving an effective reply inasmuch as the copy of the inquiry report was not given to him. These grounds were taken in appeal. However, the Appellate Authority has also passed mechanical order without going into the facts of the case and has dismissed the appeal on 8.1.1991. In the aforesaid circumstances, I find that the petitioner's reply in defence was not considered at all and thus the order is illegal and arbitrary. From the record of other connected writ petition No. 7158 of 1991 between Chandrika Singh v. The Secretary, Regional Cane Service Authority and Ors., I find that both orders of punishment and appeal were passed in a routine manner with same terms and phrases. It appears that the authorities did not consider the reply of the petitioner at all and clubbed the petitioner's case with other cases.

5. In the aforesaid circumstances the writ petition succeeds and is allowed. The entire inquiry proceedings are vitiated and thus the impugned order placing the petitioner in category "B" and thus terminating his services vide order dated 9.3.1990 and the order of Appellate Authority dated 8.1.1991 are set aside. The petitioner will be given consequential benefits. It will, however, be open to the respondents to complete the inquiry proceedings.