
(2002) 03 AHC CK 0096
In the Allahabad High Court
Case No : C.M.W.P. No. 481 of 2000

Chandra Sekhar Tiwari

APPELLANT

Vs

State Public Services Tribunal, Lucknow and Others

RESPONDENT

Date of Decision : 08-03-2002

Acts Referred:

Citation : (2002) 2 AWC 1545 : (2002) 93 FLR 893 : (2002) 2 UPLBEC 1375

Hon'ble Judges : Rakesh Tiwari, J;M. Katju, J

Bench : Division Bench

Advocate : Ashok Khare and Aditya Kumar Singh, for the Appellant;

Final Decision : Dismissed

Judgement

M. Katju, J.—This writ petition has been filed against the impugned order of the U, P. Public Services Tribunal dated 1.10.1999, Annexure-19 to the writ petition.

2. Heard learned counsel for the parties.

3. The petitioner was a police constable posted at Police Lines, Kanpur Dehat, It is alleged that he went to Ghatampur on 2.4.1989 where he drank liquor at a country liquor shop and also misbehaved with the salesman of the liquor shop, abusing and beating the salesman and breaking the glasses. The owner of the liquor shop lodged a first Information report against the petitioner regarding the incident. The Sub-Inspector posted at police station Ghatampur summoned the petitioner but the petitioner instead of going to the police station ran away. Thereafter, he was charge-sheeted on 4.8.1989 but he remained absent from duty.

4. A departmental enquiry was held but he did not appear on 29.8.1989 and 11.9.1989. On 22.9.1989, he requested for time to put up his defence and was given time till 27.9.1989. The petitioner again did not turn up on the said date. He was again Informed about putting up his defence on 11.10.1989 for which he received information on 6.10.1989. However, he was absent. Thereafter the

enquiry officer submitted his enquiry report and issued a show cause notice on 19.10.1989. The punishing authority then passed the dismissal order on 11.12.1989 vide Annexure-5. The petitioner filed an appeal before the Deputy Inspector General of Police which remained pending till he filed a claim petition before the Tribunal. He has alleged that he was not given opportunity of hearing. He also denied that he committed any misconduct or he was absented.

5. The Tribunal has rightly held that the findings of the enquiry officer are findings of fact and the evidence cannot be re-appreciated by the Tribunal. The Tribunal has also held that the petitioner willfully absented from the enquiry proceeding. The petitioner was also furnished the documents which he required and he also inspected the documents. The Tribunal has also observed that the petitioner had absented from duty in the past, without permission and was awarded minor punishment. Hence his record was not clean.

6. We see no reason to interfere with the impugned order of the Tribunal. A policeman is supposed to uphold the law but in this case, the petitioner has broken the law by breaking the glass and abusing and assaulting the salesman in the liquor shop. He was also absent without leave.

7. Learned counsel for the petitioner submitted that the penalty of dismissal from service is disproportionate to the charges. We do not agree. In this case, not only the petitioner was under influence of liquor during duty hours he also assaulted the salesman and broke the glass of the liquor shop. Hence, we are not inclined to interfere with the impugned order. The writ petition is dismissed.