
(2010) 06 UK CK 0147
In the Uttarakhand High Court

Deepak Malik

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 25-06-2010

Acts Referred:

Citation : (2010) 06 UK CK 0147

Hon'ble Judges : J.S. Khehar, C.J.;Sudhanshu Dhulia, J

Bench : Division Bench

Judgement

J.S. Khehar, C.J.—Whilst the petitioner was posted as Station Officer, Police Station Ranipur in District Haridwar, during the year 2001, he allegedly committed some misdemeanours. The aforesaid misdemeanours were committed after the reorganisation of the composite State of Uttar Pradesh. Consequent upon the reorganisation of the composite State of Uttar Pradesh, the petitioner was allocated to the successor State of Uttar Pradesh. In sum and substance, therefore, the petitioner must be deemed to be an employee of the successor State of Uttar Pradesh with effect from 9.11.2000. Based on the eventual allocation of the petitioner to the successor State of Uttar Pradesh, he was relieved by the State of Uttarakhand on 28.11.2004, whereafter he assumed his duties in the successor State of Uttar Pradesh.

2. After the petitioner was relieved, a Show Cause Notice dated 29.9.2005 was issued to the petitioner by the Senior Superintendent of Police, Haridwar, based on the alleged misdemeanours of the year 2001. Having received the response of the petitioner, he was awarded the punishment of censure. The petitioner assailed the same by preferring an Appeal. The Appellate Authority, however, dismissed the Appeal preferred by the petitioner vide an order dated 26.5.2007. Thereafter, the petitioner filed a Review Petition, which was also dismissed on 21.11.2007.

3. Dissatisfied with the confirmation of the punishment inflicted upon him, the petitioner assailed the impugned orders by preferring Claim Petition No. 4 of 2008, before the Public Services Tribunal, Uttarakhand. The aforesaid Claim

Petition was also dismissed on 23.10.2008.

4. Having failed at all fronts, the petitioner has approached this Court by filing the present Writ Petition. The solitary contention of the learned Counsel for the petitioner, during the course of hearing of the instant Writ Petition, was that the aforesaid Senior Superintendent of Police, Haridwar had no jurisdiction whatsoever to initiate proceedings against the petitioner. It is, therefore, submitted that the Show Cause Notice dated 29.9.2005 issued by the Senior Superintendent of Police, Haridwar was totally without jurisdiction. Based on the instant contention, it is submitted, that all subsequent consequential orders passed by the Punishing Authority, the Appellate Authority, the Reviewing Authority, as also, by the Public Services Tribunal, Uttarakhand are liable to be set aside.

5. Learned Counsel for the respondents could not dispute the fact, that after the reorganisation of the composite State of Uttar Pradesh with effect from 9.11.2000, the petitioner became an employee of the successor State of Uttar Pradesh. Thereafter, action could have been initiated against the petitioner in terms of his service rules by his superiors from the successor State of Uttar Pradesh. The Show Cause Notice dated 29.9.2005 was issued to the petitioner by the Senior Superintendent of Police, Haridwar i.e. an Officer of the successor State of Uttarakhand.

6. In view of the fact, that the factual position is not disputed, namely, the final allocation of the petitioner to the successor State of Uttar Pradesh, the fact that the petitioner was relieved by the State of Uttarakhand so as to assume his duties in the successor State of Uttar Pradesh on 28.11.2004, whereafter the Show Cause Notice dated 29.9.2005 was issued to the petitioner by the Senior Superintendent of Police, Haridwar, we are satisfied that the action initiated against the petitioner by the Senior Superintendent of Police, Haridwar through the Show Cause Notice dated 29.9.2005 was totally without jurisdiction.

7. In view of the above, the Show Cause Notice dated 29.9.2005 issued by the Senior Superintendent of Police, Haridwar and all orders passed in furtherance thereof, including the order awarding the punishment of censure to the petitioner dated 31.11.2006, and the dismissal of the Appeal vide order dated 26.5.2007 and the Review Petition vide order dated 21.11.2007 are liable to be set aside.

8. For the same reasons, as have been indicated hereinabove, the impugned order dated 23.10.2008 passed by the Public Services Tribunal, Uttarakhand dismissing the Claim Petition No. 4 of 2008 preferred by the petitioner is also liable to be set aside.

9. For the reasons recorded hereinabove, the instant Writ Petition is allowed. The impugned orders, as have been referred in the foregoing paragraphs, are hereby set aside. In spite of the determination rendered hereinabove, it will be open to the Competent Authority in the State of Uttarakhand, under whose jurisdiction and control the petitioner discharged his duties till he was relieved on

28.11.2004 to forward for the consideration of the Competent Authority in the successor State of Uttar Pradesh, the alleged misdemeanours so as to enable the successor State of Uttar Pradesh to proceed against the petitioner in accordance with law, if it is so advised.

10. The instant Writ Petition is disposed of in the aforesaid terms.