
(2010) 12 SHI CK 0134
In the High Court Of Himachal Pradesh
Case No : CWP No. 6525 of 2010

Dharam Chand

APPELLANT

Vs

The State of H.P. and Others

RESPONDENT

Date of Decision : 14-12-2010

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 14

Citation : (2010) 5 SLR 113

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Judgement

V.K. Sharma, J.—The Petitioner while working as Sub Divisional Soil Conservation Officer (S.D.S.C.O.), Banikhet, District Chamba is alleged to have committed some irregularities during the course of his employment as such. Consequently, disciplinary proceedings for imposition of major penalty under Rule 14 of the CCS (CCA) Rules, 1965 were contemplated against him vide order dated 1.10.2010, Annexure P-15. However, according to him, he is innocent and has been falsely framed. Pending inquiry the Petitioner has been relieved of his duties as S.D.S.C.O., Banikhet (Chamba) with a direction to hand-over charge to S.D.S.C.O., Chamba immediately. It is stated that posting orders of the Petitioner will be issued separately. Almost a period of two and a half months is going to elapse since passing of order dated 1.10.2010, Annexure P-15, but posting orders of the Petitioner have not been issued.

2. Against the above backdrop, the petition has been filed on the following prayers:

(i). That the order dated 1.10.2010 at Annexure P-15 may kindly be quashed and set aside, in the interest of justice.

(ii). That Respondents No. 1 & 2 may further be restrained from transferring the Petitioner and from initiating any disciplinary proceedings on the basis of the complaint made by Respondent No.3 and after summoning of the complaint and

inquiry report, the same may kindly be quashed and set aside.

3. In the reply filed on behalf of the Respondents, the following stand has been taken vide para 8:

8. That in reply to this para it is submitted that a complaint was received from Group Captain (Rtd.) Bhupinder Singh R/o village Dharana, PO Tundi, Tehsil Bariyat, Distt. Chamba regarding mis-appropriation/ embezzlement of Govt. money which was sent to the replying Respondent further getting the same enquired into. The replying Respondent asked Sh. R.K. Gupta, Distt. Agriculture Officer, Chamba, who was the senior-most officer in Chamba District and was also holding the charge of Dy. Director of Agriculture, Chamba, in addition to his own duties to enquire into the matter and submit detailed fact finding report (Annexure R/1). Besides this, a joint inspection by DE (SC), Palampur and DDA, Chamba (Annexure R/2) was also conducted and both the inquiry reports were sent to the Govt. Although an independent inquiry has also been conducted through Superintending Engineer (Soil Conservation) Hqrs (Annexure R/3), when charge has been proved. In the inquiry reports the charge of embezzlement and misappropriation of Govt. money have been proved. After receipt of complaint, the Secretary (Agr.) has taken a decision to start disciplinary proceedings for major penalty under Rule 14 of CCS (CCA) Rules, 1965 and it was further decided that Sh. Dharam Chand, Petitioner should hand over the charge of the post of SDSCO, Banikhet to SDSCO, Chamba and his posting orders shall be issued separately (Annexure R/4). The said order was issued after thorough consideration of the works being executed by the Petitioner. The said order has been issued on administrative exigency and needs to be implemented in view of the inquiry reports. Thereby there is no cause by which the Petitioner should have been aggrieved as contemplated. In fact it is upto the Govt. to post any person at any place for which the concerned govt. servant is required to comply with the orders. However, the Petitioner was transferred from the post of SDSCO, Banikhet to the post of STO, Chamba on administrative exigency which the applicant should have joined his duty at once as both the posts are of equal status.

4. Rejoinder refuting the above stand has been filed.

5. In view of the above, the petition is disposed of with a direction to Respondent No. 1 to look into the matter and consider issuing posting orders of the Petitioner in terms of order dated 1.10.2010, Annexure P-15 within a fortnight from production of copy of this judgment by the Petitioner.

6. The petition stands disposed of, so also the pending application(s), if any. Dasti copy.