

(2009) 04 AHC CK 0483
In the Allahabad High Court

Ghanshayam

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision : 09-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0483

Hon'ble Judges : Dilip Gupta, J

Final Decision : Dismissed

Judgement

Dilip Gupta, J.

This petition seeks the quashing of the order dated 5th October, 2006 passed by the District Magistrate, Lalitpur by which the petitioner has been dismissed from the service.

The petitioner was appointed as a Village Policeman. He was dismissed from service by the order dated 3rd June, 2006 passed by the District Magistrate. Feeling aggrieved, he filed Writ Petition No. 37265 of 2006 which was allowed by this Court by the judgment and order dated 19th July, 2006 and the dismissal order was set aside on the ground that neither show cause notice nor opportunity of hearing had been given to the petitioner. Subsequently, show cause notice dated 24th August, 2006 was issued to the petitioner and the petitioner filed a reply dated 2nd September, 2006. The District Magistrate, Lalitpur thereafter passed the order dated 5th October, 2006 dismissing him from service.

A perusal of the order indicates that in the night of 25th February, 2006 some persons had committed theft by stealing peas from the field of Harish Chand but as Harish Chand reached the spot, the thieves left the bags containing the peas which were thereafter kept in the house of Azad Khan. The petitioner who was the Village Chaukirdhar subsequently picked up four such bags and did not return them to Harish Chand inspite of repeated demands by him and subsequently changed the bags. An inquiry was conducted by the Police Officials

who recommended for his dismissal as he was found to be involved.

In reply to the said show cause the petitioner stated that on the asking of the village people, the peas bags had been given to the Maharaj of Chadraun and he also disputed the report submitted by the Police.

The impugned order mentions that the petitioner had not denied that the peas bags that had been kept in the house of Azad Khan had been taken by him. The Circle Officer, Mahrauni in his report dated 11th April, 2006 had clearly mentioned that the petitioner had changed the peas bags. The petitioner had also not submitted any evidence in support of his plea that he had subsequently given the peas bags to the Maharaj of Chandraun at the instance of the village people. In such circumstances, the impugned order mentions that the village Chaukidhar whose duty is to look after the security of the village had indulged in such activities on account of which it was not possible to continue him any longer as the village Chaukidhar.

Learned counsel for the petitioner, however, contended that the provisions of Article 311 of the Constitution are attracted and a detailed inquiry should be held and in support of this contention, he has placed reliance upon the decision of the Supreme Court in Chandra Prakash Shahi Vs. State of U.P. & Ors. 2000 (3) ESC 1625. This decision does not help the petitioner as the petitioner could not substantiate that the provisions of Article 311 of the Constitution are attracted in the present case.

Section 36 of the Oudh Laws Act, 1876 clearly provides that the Magistrate of the District may dismiss any village policeman or road policeman for any misconduct or neglect of duty and in this connection a report can be submitted to him and the Magistrate shall dismiss such village policeman, unless the Magistrate has reasons to think that such dismissal would be improper.

In the present case, the District Magistrate has found as a fact that the petitioner had committed an illegal act which deserved dismissal from service. He has given cogent reasons for coming to such a conclusion. There is no good reason to interfere with the impugned order in exercise of the writ jurisdiction under Article 226 of the Constitution.

The writ petition is, accordingly, dismissed.