
(2012) 01 AHC CK 0554
In the Allahabad High Court
Case No : Writ A No. 76110 of 2011

Girjesh Kumar Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 12-01-2012

Acts Referred:

Uttar Pradesh State Road Transport Corporation Employees (Other than Officers)
Service Regulations, 1981 — Regulation 64(5), 9, 9

Citation : (2012) 5 ADJ 744

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon'ble Sudhir Agarwal, J.—The short controversy raised before this Court assailing the impugned order of punishment (removal) dated 29.10.2011 is that Assistant Regional Manager, Shahganj Depot has no jurisdiction or authority to impose punishment upon petitioner since he is not appointing authority of petitioner and, therefore, the impugned order is wholly without jurisdiction. Sri Ashok Khare, learned Senior Advocate, contended that petitioner was working as Conductor in Ballia Depot of U.P. State Road Transport Corporation and, therefore, Assistant Regional Manager, Ballia Depot was appointing authority who was authorized to pass an order of punishment and not the Assistant Regional Manager, Shahganj Depot. He drew my attention to Rule 9 (ii) of U.P. Road Transport Corporation Employees (Other than Officers) Service Regulations, 1981 (hereinafter referred to as "Regulations, 1981") which defines appointing authority and reads as under:

9. (ii) "Appointing Authority" means the Board or an officer authorised by the Board to make appointment.

2. He also drew my attention to Office Order dated 29.1.1996 whereby the Board of Directors has authorized an Assistant Regional Manager, to act as an appointing authority, in respect to Drivers, Conductors etc. working in a depot.

The territorial jurisdiction is specifically provided in aforesaid Office Order which reads as under:

3. It is, therefore, contended that Assistant Regional Manager of another depot in which the Driver or Conductor is not attached or working cannot exercise power of appointing authority. He also drew my attention to Regulation 64 (5) Regulations, 1981 providing that power of punishment, i.e. dismissal or removal can be exercised only by appointing authority.

4. Sri A.K. Singh, Learned Counsel for respondent-Corporation, however, admitted that appointing authority of petitioner was Assistant Regional Manager, Ballia Depot but said that the said Officer expressed his inability to pass any order against the petitioner and requested the Regional Manager, Ballia to transfer jurisdiction from Assistant Regional Manager Ballia to another Officer and acting upon the said request, Regional Manager passed an order transferring the jurisdiction to Assistant Regional Manager, Shahganj who has passed the impugned order. However, he fairly stated that there is no such provision under which such delegation or transfer of jurisdiction of appointing authority could have been made by Regional Manager.

5. Having heard rival submissions and perusing the record, I find that Regulations, 1981 contemplate that appointing authority means the Board or an Officer authorized by the Board to make appointment. So it is only the Board who can authorize any other Officer to make appointment and on such authorization, the Officer, so authorized, would be covered by the term "appointing authority" under Regulations 9 (ii) of the Regulations, 1981. The Board in its wisdom authorize Assistant Regional Manager having territorial jurisdiction over the employees whose classification is also mentioned in this Office Order dated 29.1.1996. To this extent even Sri A.K. Singh could not raise any serious dispute and virtually conceded that the appointing authority of petitioner was/is Assistant Regional Manager, Ballia under whose jurisdiction petitioner is posted. It is also not disputed that the appointing authority of petitioner was not altered by the Board of Directors who is the only competent authority to do so. The alleged power exercised by Regional Manager by authorizing Assistant Regional Manager, Shahganj Depot is not founded on any provision of Regulations and is clearly unauthorized and illegal. He had no power to make such an authorization and at least none has been shown to this Court by the respondents.

6. In the facts and circumstances of the case, it is evident that Assistant Regional Manager, Shahganj has no jurisdiction to pass impugned order of punishment. At the best, jurisdiction could have been transferred only by Board of Directors and not by Regional Manager. When a procedure is prescribed in statute, a thing must be done in that manner and not otherwise. The impugned order of removal has been passed by an authority who is not competent to pass such an order.

7. In the result, writ petition is allowed. Impugned order dated 29.10.2011

(Annexure 24 to writ petition) is hereby quashed. Petitioners shall be entitled to all consequential benefits.

8. However, competent authority is at liberty to pass a fresh order in accordance with law.