
(2010) 08 UK CK 0096
In the Uttarakhand High Court

Het Ram Puri

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 06-08-2010

Acts Referred:

Citation : (2010) 08 UK CK 0096

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J.—Heard Mr. P.C. Bisht, Advocate for the petitioner as well as Mr. H.M. Raturi, learned Standing Counsel for the State of Uttarakhand at length.

2. The petitioner, by means of the present Writ Petition, has challenged the order of his dismissal dated 7.12.2000 (Annexure ? 7 to the Writ Petition) passed by respondent No. 3 i.e. the Superintendent of Police, Champawat and the order dated 27.6.2002 (Annexure ? 8 to the Writ Petition) passed by respondent No. 4 i.e. the Deputy Inspector General, Kumaun Range, Nainital.

3. Brief facts of the case are that the petitioner was appointed as a constable in the Uttar Pradesh Police Services on 28.11.1971. In the year 1990 the petitioner was transferred to Moradabad where he remained posted at the relevant point of time i.e. in year 1999. He was transferred from Moradabad to Champawat vide order dated 18.6.1999. As per the said order, the petitioner had to join his duties at Champawat on or before 15.7.1999. The petitioner failed to join his duties at Champawat and, therefore, disciplinary proceedings were initiated against him for the charges of unauthorised absence from duty. He was served notice at his home address at Bareilly. Although the notices were not personally served to the petitioner but they were pasted on his house in accordance with law. He was duly served and informed about the disciplinary proceedings initiated against him, yet he did not participate in the disciplinary proceedings. The petitioner, on the other hand, defended his absence saying that in June and July, 1999 even

before his transfer from Moradabad to Champawat, he was suffering from tuberculosis, and for its treatment he had gone to his village in Tehsil Aonla, District Bareilly. However, the department has not accepted this defence and has stated that his request for leave which was filed later, there was no medical certificate of any authority. Moreover, if the petitioner was really sick, he should have got admitted in the Government Hospital, which he has not done. Further, no such prior permission was taken from the department. The petitioner did not even participate in the disciplinary proceedings which went against the petitioner. The petitioner has not been able to convince this Court that his absence from duty was bona fide and that he had sufficient reason for being absent from duty. The Police establishment is a disciplined force and as such this action of the petitioner cannot be condoned. Therefore, this Court finds no merit in the present Writ Petition.

4. Another submission of the learned Counsel for the petitioner Sri P.C. Bisht is that the disciplinary authorities have actually condoned his leave as 'leave without pay' and therefore the petitioner cannot be punished for 'absence without leave'! Here again the argument of the learned Counsel for the petitioner seems to be misconceived. In *Maan Singh Vs. Union of India (UOI) and Others*, , the Apex Court has held that where an order granting leave without pay is made after terminating the services of an employee, it is only made for the purposes of maintaining a correct record of the duration of service and adjustment of leave due to the delinquent officer and for regularizing his absence from duty. All it means is that no salary is liable to be made for the above period. It means noting more, nor anything less.

5. In view of the above, this Court is satisfied that the order dated 7.12.2000 (Annexure ? 7 to the Writ Petition) passed by respondent No. 3 i.e. the Superintendent of Police, Champawat and the order dated 27.6.2002 (Annexure ? 8 to the Writ Petition) passed by respondent No. 4 i.e. the Deputy Inspector General, Kumaun Range, Nainital are just and proper and need not be interfered by this Court.

This Court, therefore, finds no merit in the present Writ Petition and the same is liable to be dismissed and is hereby dismissed.

6. No order as to costs.