

(2012) 02 AHC CK 0079

In the Allahabad High Court

Case No : Service Single No. 4034 of 2009

Kamlesh Kumar Pandey and another

APPELLANT

Vs

The State of U.P. and Others

RESPONDENT

Date of Decision : 27-02-2012

Acts Referred:

Citation : (2012) 02 AHC CK 0079

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon"ble Sudhir Agarwal, J.—Writ petition is directed against the order dated 5.8.2006 having adverse consequences to petitioners and the same has been assailed on the ground that the aforesaid order has been passed without any show cause notice or opportunity of hearing to petitioners though the aforesaid order visits civil consequences to petitioners. It is submitted that petitioners were given promotional scale by order dated 20.2.2002 but the same has been withdrawn without any show cause notice or opportunity to petitioners. The averment that no opportunity was given has been averred in para 11 of the writ petition and in the counter affidavit, no averment has been made that the impugned order was passed after giving any show cause notice of opportunity to petitioners.

2. It is well settled that no order adverse to interest of any person ought to have been passed in violation of principle of natural justice. It cannot be disputed that the impugned order has civil consequences to the petitioners.

3. In State of Orissa Vs. Dr. (Miss) Binapani Dei and Others, the Apex Court said:

It is true that the order is administrative in character, but even an administrative order which involves civil consequences as already stated must be made consistently with the rules of natural justice after informing the first respondent of the case of the State, the evidence in support thereof and after giving an

opportunity to the first respondent of being heard and meeting or explaining the evidence. No such steps were admittedly taken; the High Court was, in our judgment, right in setting aside the order of the State.

4. The Apex Court in *Bhagwan Shukla Vs. Union of India and others*, has held:

... fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter.

5. Since the impugned order has been passed in utter violation of principles of natural justice, writ petition deserves to succeed and is allowed. Impugned order dated 5.8.2006 is hereby quashed.

6. However, this order shall not preclude the respondents from passing a fresh order in accordance with law after giving due opportunity of hearing to petitioners.