
(2002) 01 AHC CK 0208

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 33491 of 1996

K.K. Dutta

APPELLANT

Vs

Managing Director, U.P. Cooperative Spinning Mills Federation
Ltd. and Another

RESPONDENT

Date of Decision : 09-01-2002

Acts Referred:

Citation : (2002) 1 UPLBEC 425

Hon'ble Judges : S.K. Singh, J;M. Katju, J

Bench : Division Bench

Final Decision : Allowed

Judgement

S.K Singh, J.—Heard learned Counsel for the parties.

2. Petitioner is challenging his removal order dated 16.8.96 passed by the Acting Secretary/General Manager of U.P. Cooperative Spinning Mills Federation Ltd., vide Annexure-1 -K to the writ petition.

3. It appears that the petitioner was given charge-sheet on 8.5.96 Annexure-3 to the writ petition and supplementary charge-sheet, Annexure-4 to the writ petition. Petitioner denied the charges and the copy this reply is Annexure-5 to the writ petition.

4. In para 7 of the writ petition it is stated that no date was fixed for the enquiry or for recording the evidence and hence no proper opportunity of hearing given to the petitioner. The same allegation has been made in para 9 of the writ petition. The petitioner received the charge-sheet to which he gave a reply, and thereafter a show-cause notice dated 8.8.96, was issued alongwith a copy of the enquiry report on 8.8.96. However, it appears that the so-called inquiry report on 8.8.96. was held behind the back of the petitioner and without affording any opportunity of hearing to the petitioner.

5. Thereafter the impugned removal order dated 16.8.96 was passed. This fact is

not disputed by learned Counsel for the respondents. What has been submitted by the learned Counsel or the respondents, is it was not possible to hold an enquiry as there are charges of corruption against the petitioner.

6. We do not agree with the submission that if there is charges of corruption no enquiry need to held. In our opinion, the enquiry against the petitioner should have been held, otherwise there will be violation of natural justice. This submission of learned Counsel for the petitioner is hence rejected.

7. It was held by this Court in the case of Subhash Chandra Sharma Vs. Managing Director, U.P. Co-op. Spg. Mills Federation Ltd., Kanpur and another, , that before passing-the dismissal order an enquiry should be held intimating the accused employee of the date, time and place of the enquiry. This decision has been upheld by the Supreme Court which dismissed the SLP against that judgment.

8. In the preset case also the petitioner was not intimated the date time and place of the enquiry. In our opinion no proper enquiry was held at all and the petitioner was dismissed affording any opportunity of hearing to him. Hence, the decision in Subhas Chandra Sharma's case (supra) squarely applied to the facts of the present case. The writ petition succeeds and is allowed. The impugned removal order dated 16.8.96 is hereby quashed.

9. There is no order as to costs.