
(2012) 08 AHC CK 0018
In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 21745 of 2006

Maresh Singh Sharma

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 08-08-2012

Acts Referred:

Citation : (2013) 1 ADJ 286 : (2013) 2 ALJ 50 : (2013) 137 FLR 230

Hon'ble Judges : Sunil Hali, J

Bench : Single Bench

Advocate : H.N. Tripathi and Rajesh Tripathi, for the Appellant; Ravindra Singh and C.S.C., for the Respondent

Final Decision : Allowed

Judgement

Sunil Hali, J.—On 29.3.1976 the petitioner was appointed on the post of Clerk in the Uttar Pradesh Sahkari Ganna Samiti. Allegations of misconduct have been leveled against him as a result of which an inquiry was initiated against him. The Inquiry Officer was nominated who initiated inquiry against the petitioner. As many as ten charges were framed against him. The charge against the petitioner is that he forged signatures of the Cane Officer, Ghaziabad and also some of the employees working in the Sahkari Sangh and has withdrawn money and misappropriated the same. He was also charged for non-compliance of the order in not furnishing document on the record submitted by the higher authorities. Reply was filed by the petitioner against the charge-sheet denying the allegations. Specific stand taken by the petitioner is that he had not forged any signatures and therefore, the same may be sent for verification by an expert. The Inquiry Officer did not accede to the request of the petitioner and held that the petitioner has forged signatures of the officers and the other employees. Witnesses were examined by the Inquiry Officer who proved the charges against the petitioner. The Inquiry Officer submitted inquiry report to the appointing authority who issued show-cause notice to the petitioner. In reply to the show-cause notice, petitioner put a specific plea that the forged signatures stated to

have been made by the petitioner may be referred to an expert.

2. The appointing authority reverted the petitioner to his basic pay-scale and two entries were also recorded against the petitioner in his service book. The petitioner preferred appeal against this order which was also dismissed. Under these circumstances, the present writ petition has been filed.

3. In terms of Section 122 that the petitioner's services are governed by Uttar Pradesh Cane Co-operative Service Regulations, 1975. Chapter 10 of the Regulations deals with the inquiry and punishment for the employees of the society. Regulation 66-68 deals with the procedure to be followed by holding inquiry against the delinquent officer. It provides comprehensive procedure in the matter of holding inquiry. The main feature of the procedure is that charge-sheet has to be supplied alongwith the evidence in support of the charges. The delinquent official will be called upon to submit his explanation in writing for each charge within a specified time. In case the delinquent official denies the charges, he will be allowed to cross-examine such witnesses. After completion of the said process, the inquiry report is to be submitted by the Inquiry Officer to the Appointing Authority. After examining the case, if the Appointing Authority finds that the punishment of dismissal, removal reduction in the rank is required to be imposed on the delinquent employee, he may seek his reply against the said proposed punishment. A copy of the report of the Inquiry Officer shall also be supplied to the delinquent official alongwith the show-cause notice. After reply is submitted, the Appointing Authority shall pass appropriate orders in this behalf.

4. There is no dispute that the procedure as envisaged under the Regulation has not been followed except the fact that the show-cause notice accompanied with the inquiry report has been given to the petitioner. In the present case, Inquiry Officer has concluded that the petitioner has forged signatures as a result of which charge of misconduct is proved against him.

5. The learned counsel for the petitioner submits that by mere recording the finding that the petitioner has forged signatures, the charge against him is not proved. The petitioner has at the initial stage had prayed that the matter should be referred to a hand writing expert but the same has not been done in his case. The finding has been recorded on the visual examination of the signatures which are said to be forged. The Inquiry Officer could not record such a finding without obtaining the report of an expert.

6. On the other hand, the stand of the respondents is that the signatures, which are said to have been forged, have been proved by the witnesses, who have been examined in support of the charges.

7. I have heard learned counsel for the parties and perused the record.

8. It is settled law that by process of judicial review the Courts cannot appreciate evidence and record their own findings of fact. However, if the findings are based on no evidence or based on conjectures or surmises and no reasonable person

would on given facts and circumstances of the case, come to the conclusion reached by the appellate authority or by the appointing authority on the basis of the evidence on record, certainly the High Court has power to oversee whether the findings recorded by the authority is based on no evidence or beset with surmises or conjectures.

9. This issue is no longer *res integra* that even in the domestic inquiry, rules of evidence have to be followed. Charge of forgery is required to be proved by an expert as is required by law. Specific stand was taken by the petitioner before the appointing authority that he has not forged signatures. In case there was any doubt in this behalf, the matter would have been referred to an expert as any finding on this issue can only be given by the expert. On the basis of the statements whose signatures have been said to have been forged, the finding of forgery cannot be arrived. The witnesses could only certify their own signatures but could not state that the said signatures were forged by the petitioner. Thus, in my view, the appointing authority has relied upon an evidence which was not admissible. There was no evidence on the basis of which authority could be reach on the finding that the petitioner has forged signatures, Therefore, the punishment imposed on the basis of the said finding cannot sustain.

10. In view of the above, I set aside the impugned order and direct the respondents to refer the signatures, which are said to have been forged by the petitioner, to an expert. The Inquiry Officer shall summon the expert for opinion and give the petitioner an opportunity to cross-examine the witnesses in support of his defence. The said process shall concluded within a period of six months from the date a certified copy of this order is served on the appointing authority by the petitioner. With the aforesaid observations, the writ petition is allowed.