
(1991) 08 AHC CK 0010

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 16611 of 1991

Mewa Ram Bharati

APPELLANT

Vs

The District Administrative Committee U.P. Primary
Agricultural Cooperative Credit Societies Centralised Service
and Another

RESPONDENT

Date of Decision : 08-08-1991

Acts Referred:

Citation : (1992) 1 AWC 252 : (1991) 2 UPLBEC 1306

Hon'ble Judges : R.A. Sharma, J

Bench : Single Bench

Advocate : Ram Lal Singh, for the Appellant;

Judgement

R.A. Sharma, J.—Petitioner, who claims to be an employee of the U.P. Primary Agricultural Cooperative Credit Societies centralised service, Bareilly, has filed this writ petition, challenging the order of his suspension dated 7-3-1991 passed by the Secretary-member of District Administrative Committee, Respondent No. 2.

2. Learned Counsel for the Petitioner has made three submissions, namely, (1) under the U.P. Primary Agricultural Cooperative Credit Centralised Services Regulation 1978, (hereinafter referred to as Regulations) a member of the Centralised service can be suspended only with prior approval of the Assistant Registrar, but no such prior approval of the Assistant Registrar has been obtained before suspending the Petitioner:(ii) the order of suspension does not disclose the reasons and is non speaking order, and (iii) there has been undue delay in initiating disciplinary proceedings.

3. It is admitted that the secretary member is himself the Assistant Registrar, when an officer is holding two offices, one of the secretary member and the other of Assistant Registrar, it is not necessary for him to obtain prior approval before suspending member of the Centralised service. When such an officer passes order of suspension provisions of law stand complied with and no prior

approval of any other authority is required. In this connection, reference may be made to a decision of a Division Bench in the case of Rishi Kumar Sharma v. State of U.P. (Writ petition No. nil of 1988 decided on 19-8-1988) wherein it has been laid down that if the secretary is himself Assistant Registrar provisions of obtaining approval of Assistant Registrar become redundant. Relevant extract from this judgment is reproduced below:

As the District Assistant Registrar now holds the post of secretary, in our opinion, the provisions of obtaining the concurrence of the Assistant Registrar by the Secretary has become redundant.

For the reasons given above the first submission of the Learned Counsel for the Petitioner cannot be accepted.

4. As regards the second submission, it is not necessary that the suspension order should contain reasons. There is no such obligation created by law. In the instant case, however, the suspension order does mention ground on which enquiry is proposed.

5. The third submission of Learned Counsel for the Petitioner, however, has substance. The suspension order was passed on 7-3-1991 on the ground that disciplinary enquiry is contemplated against the Petitioner. It has been stated by the Learned Counsel for the Petitioner that so far no charge sheet has been given to the Petitioner and disciplinary enquiry has not yet been initiated against the Petitioner. The order of suspension cannot be used as an instrument for harassment to an employee. Undue delay in initiating disciplinary proceedings may amount to abuse of power. In the instant case, the Petitioner was suspended on the ground that enquiry is contemplated against him. Even after five months Respondents have not given charge sheet to the Petitioner and have not initiated disciplinary proceedings. In view of the facts and circumstances of the case, I direct the Respondents to conclude the disciplinary proceedings against the Petitioner, within three months from the date of presentation of certified copy of this order. Petitioner will cooperate with the Respondents in enquiry.

6. With these observations the writ petition is disposed of.