
(1997) 04 AHC CK 0107

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition Nos. 36316 of 1994 and 34934 of 1992

Mohd. Ismail

APPELLANT

Vs

Member Secretary, Dist. Administrative Committee, Fatehpur &
Ors.

RESPONDENT

Date of Decision : 23-04-1997

Acts Referred:

Citation : (1997) 04 AHC CK 0107

Hon'ble Judges : Aloke Chakrabarti, J

Final Decision : Disposed Of

Judgement

R. A. Sharma, J.—Petitioner is Secretary of a Sadhan Sahkari Samiti and belongs to Centralised Service Created under the U.P. Cooperative Societies Act. He was suspended by the Secretary of the District Administrative Committee vide order dated 261992 on the ground of financial irregularity. Being aggrieved he has filed Writ Petition No. 34934 of 1992 before this Court in which on 22992 an interim order, staying the order of suspension, was passed. "During the pendency of the writ petition the petitioner was again suspended vide order dated 2991994 on the ground of misappropriation and financial irregularities. This order has been challenged by the petitioner by means of Writ Petition No. 36316 of 1994.

2. We have heard the learned counsel for the petitioner and Sri H. R. Misra and Sri O.P. Singh for the respondents.

3. Learned counsel for the petitioner has made three submissions viz. (i) Secretary, District Administrative Committee has no jurisdiction to suspend a Secretary of the Centralised Service ; (ii) There is undue delay in initiating and concluding the disciplinary proceedings against the petitioner; and (iii) If the first suspension order dated 261992 was stayed by this Court it was not open to the respondents to pass second suspension order on the same ground.

4. So far as the first contention is concerned, the same is squarely covered by a

decision of Full Bench of this Court in Ram Chandra Pandey v. District Administrative Committee and others (Writ Petition No. 4093 (SB) of 1993 (Lucknow Bench) decided on 621997, wherein it has been held that the Secretary of District Administrative Committee has the power to suspend a Secretary of the Centralised Service. This contention is therefore, rejected.

5. As regard the second submission it may be mentioned that the first order dated 621992 suspending the petitioner and directing for holding enquiry against him, was stayed by this Court and the said stay order is still operating. Therefore, the respondents cannot be blamed for not concluding the disciplinary enquiry earlier. However, the grievance of the petitioner as regards the second suspension order dated 2991994 appears to be justified, because this Court has not granted any interim order in the writ petition, in which the said order was challenged. The respondents were expected to initiate and conclude the disciplinary proceedings at the earliest, but they have failed to do so. Therefore, it is a case of undue delay.

6. As regards the third submission it is true that on the same charges second order on suspension should not be passed, when the first order of suspension has been stayed by this court in a panding writ petition same, though there is overlapping to same extent.

7. For the reasons given above, these writ petitions are disposed of with the following order:

If the respondents want to hold the enquiry against the petitioner they may initiate the proceeding and conclude the same with in a period of three months of production of certified copy of this order. If they are not able to conclude the enquiry with in the time specified above the petitioners will be re instated in service. It will, however, be open to the respondents to take or not to take any work from him, but he will be paid his salary regularly as and when it falls due The petitioner is directed to cooperate with the respondents so as to enable the respondents to conclude the enquiry withir the time specified above. It is, however made clear that if the petitioner does not cooperate with the respondents it will to open to them to proceed with the enquiry a pane.