(2006) 11 MP CK 0077

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 1510 of 1994

Munnalal Dubey APPELLANT

Vs

State of M.P. and others RESPONDENT

Date of Decision : 10-11-2006

Acts Referred:

Citation : (2007) 1 MPLJ 385

Hon'ble Judges : Shantanu Kemkar, J

Bench : Single Bench

Advocate : V.S. Shroti, with Vikram Johri, for the Appellant; Sanjay Agrawal, for the Respondent

Final Decision : Dismissed

Judgement

Shantanu Kemkar, J.

The Petitioner was appointed in the year 1972 on the post of Moharrir in the Municipal Corporation, Kami (for short ''Corporation''). He was promoted in 1988 to the post of Revenue Sub Inspector. On 4-5-1989 vide order Annexure P/1 he was assigned the duty of survey and assessment of property tax of the houses situated in the newly included villages Jhinjhuri and Amkuhi in the Corporation limits. Pursuant to the said order he conducted the survey of the houses including the quarters situated in village Jhinjhuri allotted by the village Panchayat to its employee. Though the said quarters were belonging to the village Panchayat and became property of the Corporation, the Petitioner recorded in the column ''owner of the property'' of the property tax assessment register, the names of wives of the occupants of the said quarters. According to the Respondents, the Petitioner deliberately entered the names of wives of the employees as owner of the property to facilitate the occupants to grab the property and evade the taxes/rent of the Corporation. He was issued a charge sheet on 25-1-1992 (Annexure P/3) for the said misconduct. After holding the departmental enquiry, on the basis of enquiry report (Annexure R/6) the second Respondent Commissioner of the Corporation held the Petitioner guilty of misappropriation of property of the Corporation. A show cause notice (Annexure P/5) was issued to the Petitioner in regard to the proposed punishment of dismissal from service. After considering the reply submitted by the Petitioner the Commissioner instead of inflicting upon him the proposed punishment of dismissal from service inflicted upon him punishment of reversion from the post of Revenue Sub Inspector to the post of Moharrir vide order dated 28-3-1992 (Annexure P/7). The appeal against the said order was dismissed by the Appellate Authority vide order dated 6-7-1992 (Annexure P/9). The second appeal preferred by the Petitioner before the State Govt, was also rejected vide detailed order dated 21-2-1994 (Annexure P/12). Feeling aggrieved, the Petitioner has filed this petition.

The Petitioner contends that entering the names of occupants of the quarters in the column of owner was a bona fide mistake occurred on his part. He submits that this may be a negligence on his part but not a wilful act to facilitate the occupants of the said quarters to grab the property as by such wrong entry the occupants will not become owner of the said quarters. He submits that he was unaware of the fact that the said occupants were occupying the quarters allotted to them by erstwhile village Panchayat. He further submits that the conclusion drawn by the disciplinary authority to hold him guilty of misappropriation of the property is unsustainable. He alleged that the occupants of the houses who became employees of the Corporation by virtue of inclusion of village Panchayat in to the Corporation were also charge-sheeted along with him and were held guilty and punished. However the orders of punishment inflicted on those employees/occupants have been revoked, in the circumstances he submits that the punishment inflicted upon him deserves to be quashed.

The Respondents contend that for the misconduct found to be proved against the Petitioner the proposed punishment was his dismissal from the service, however taking lenient view only the punishment of reversion has been inflicted. The Respondents further contend that the two villages of which Petitioner was assigned the job of effecting the survey and recovery of property tax were within the territorial jurisdiction of erstwhile village Panchayat Tikuri. The said village Panchayat Tikuri had constructed five quarters in village Jhinjhuri near tubewell No. 1 bearing Nos. 502, 503, 504, 505 and 506. The said quarters were allotted by the village Panchayat to its employees namely Ramsiya Dwivedi, Ramesh Chandra Dubey, Rajendra Prasad Paroha, Lalta Prasad Tiwari and Jai Karan Sharma respectively. The said quarters became the property of the Corporation on inclusion of the said villages within the Municipal limits and the employees occupying the said quarters became employees of the Corporation. The Petitioner recorded the names of the wives of the aforesaid employees who were occupying the said quarters in the column of ''owner of the property'' in the property tax assessment register. According to the Respondents had the mischief not been detected the aforesaid five ladies would have claimed ownership of the quarters and evaded tax/rent. According to the Respondents, the Petitioner without verifying about title documents made wrong entry with collusion and conspiracy with the husbands of the aforesaid ladies. In the circumstances, the Petitioner was charge-sheeted and after holding the departmental enquiry punishment of reversion has been inflicted. It is also stated that the Petitioner being a responsible Officer of the Corporation it was not expected from him to make such wrong entry which would have caused great Financial loss to the Corporation. In the affidavit filed on 2-11-2006 the Respondents stated that the order of reversion by way of penalty was passed against the occupants. However, only in regard to Ramesh Chandra Dubey the said order was cancelled on 23-11-1997. It is further stated that so far as reversion order of Ramsiya Dwivedi the same was cancelled on 5-7-2005 but subsequently the cancellation was withdrawn on 29-10-2005.

On going through the averments and after considering the respective contentions made by the Learned Counsel appearing for the parties it is clear that the Petitioner who was working on the post of Revenue Sub Inspector was assigned the job of assessment of property tax of the newly included villages in the Corporation limits. He conducted the survey of the aforesaid quarters. The occupants were allotted the quarters being employees of the village Panchayat but the Petitioner entered the names of wives of the said employees in the column of owner of the property. Even assuming that because of such entry ownership would not have been transferred, still his act would have deprived the Corporation from the taxes or from the rent, therefore, the Petitioner has rightly been not absolved from the liability. For such an act on the part of the Petitioner he has rightly been punished by reversion order. In my view the Respondents have already taken a lenient view by imposing penalty of reversion in place of proposed punishment of dismissal from service.

Merely because reversion order of one Ramesh Chandra Dubey occupant of the quarter has been cancelled the Petitioner cannot claim any parity. His case is different on facts, in the circumstances he cannot complain of discrimination. The said Ramesh Chandra Dubey was not performing the duties whereas the Petitioner was performing his duty as Revenue Sub Inspector and while doing so he acted in such a manner which would have caused loss to the Corporation. Assuming that others were wrongly favoured, the Petitioner cannot claim similar treatment. If such prayer is accepted it shall amount to direct to continue and perpetuate an illegal order. See Chandigarh Administration and another Vs. Jagjit Singh and another, and Gursharan Singh and others etc. Vs. New Delhi Municipal Committee and others, .

Having regard to the aforesaid, the punishment of reversion from the post of Revenue Sub Inspector to the post of Moharrir inflicted upon the Petitioner cannot be said to disproportionate to his aforesaid misconduct. No interference is warranted in this petition.

In this view of the matter, I find no merit in this petition. Accordingly, the petition is dismissed. No orders as to costs.