
(2010) 08 GAU CK 0117
In the Gauhati High Court
Case No : W.A. No. 30 of 2005

Narayan Chandra Ghosh

APPELLANT

Vs

State of Tripura and Others

RESPONDENT

Date of Decision : 02-08-2010

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 14
Tripura Civil Services (Conduct) Rules, 1988 — Rule 3

Citation : (2010) 6 GLR 549

Hon'ble Judges : Madan B. Lokur, C.J.; C.R. Sharma, J

Bench : Division Bench

Advocate : D. Chakraborty, for the Appellant; T.D. Majumder, for the Respondent

Final Decision : Allowed

Judgement

Madan B. Lokur, C.J.—The Appellant is aggrieved by the order dated 3.6.2005 passed by a learned Single Judge in WP(C) No. 581 of 1995.

2. The Appellant was served with a charge sheet dated 10.7.1990 in which it was proposed to hold an enquiry against him under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The two articles of charge against the Appellant were as follows:

ARTICLE-I

That Sri Narayan Ch. Ghosh, Driver (under suspension), while functioning as such in the office of the Settlement Officer, South Tripura, Udaipur, misbehaved with the Settlement Officer, used unbecoming language and created unpleasant situation in the chamber of the officer on 1.3.1990 during office hours. Such behavior of Shri Ghosh amounts to misconduct and is violative of provisions of Rule 3 of Tripura Civil Services Conduct Rules, 1988 and unbecoming of a Government servant.

ARTICLE-II

That Sri Narayan Ch. Ghosh, Driver (under suspension), while serving as such in the office of the Settlement Officer, South Tripura, Udaipur, absented himself unauthorisedly from duties on 23rd and 24th of February, 1990. Because of the absence, Sri Ghosh was marked absent in the Attendance Register by the Settlement Officer, South Tripura, who was the Head of Office of Sri Ghosh at that time. Sri Ghosh thereafter put his signature on the Attendance Register for the aforesaid days without permission of the Settlement Officer though he was marked absent. Such misbehavior of Sri Ghosh amounts to misconduct and is violative of provision of Rule 3 of Tripura Civil Services Conduct Rules, 1988 and unbecoming of a Government servant.

3. The allegations were denied by the Appellant and so an inquiry officer was appointed to hold a departmental enquiry. On the conclusion of the departmental enquiry, a report dated 5.9.1992 was submitted in which it was held that the Appellant is guilty of both the charges framed against him.

4. Without supplying a copy of the inquiry report to the Appellant, the disciplinary authority passed an order dated 29.9.1992 to the effect that he agreed with the inquiry report. He held that the charges were established and, therefore, as his disciplinary authority he imposed upon the Appellant a penalty of withholding of three increments of pay with cumulative effect.

5. It is specifically stated by the Appellant in paragraph 14 of the writ petition that the inquiry report was not furnished to him nor was he given an opportunity to represent against the inquiry report. The inquiry report was given to him only with the order of punishment passed on 29.9.1992. In his writ petition, the Appellant submitted that in view of this, the punishment imposed on him was vitiated and the departmental proceedings be set aside.

6. By the judgment under appeal, the learned Single Judge did not agree with the submissions made on behalf of the Appellant and accordingly dismissed the writ petition. It is under these circumstances that the present writ appeal has been preferred.

7. It is now well settled that in matters of disciplinary proceedings, a delinquent officer is entitled, as a matter of right and as a basic principle of natural justice, to a copy of the inquiry report if the findings are against him. The delinquent officer is also entitled to make a representation against the inquiry report to the disciplinary authority. Admittedly, neither of these basic requirements were adhered to in this case. This is clear from an absence of any no specific denial to the averments made by the Appellant in paragraph 14 of his writ petition. There is also no positive averment made by the Respondents that the inquiry report was furnished to the Appellant before imposition of the punishment.

8. Since there is a clear failure to follow the principles of natural justice in this case, we have no option but to set aside the finding of guilt against the Appellant and all the consequential actions that have been

(missing text)

9. Under the circumstances, the appeal is allowed and the judgment and order under appeal is set aside.