

(2008) 02 AHC CK 0008
In the Allahabad High Court

Parshu Ram Chaudhary

APPELLANT

Vs

U.P. Public Services Tribunal and Others

RESPONDENT

Date of Decision : 27-02-2008

Acts Referred:

Citation : (2008) 117 FLR 435

Hon'ble Judges : Yatindra Singh, J;Ran Vijai Singh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Yatindra Singh and Ran Vijay Singh, JJ.—The petitioner was appointed as Mali in 1971. He was given first charge-sheet on 30th November, 1981. He was given second charge-sheet on 17.5.1982. No reply was filed by the petitioner. The petitioner was given a show cause notice on 4.7.1982 alongwith copy of the inquiry report. The petitioner send his reply to the show cause on 19.7.1982. He was awarded punishment on 11.8.1982 and he was deemed to be removed one month after passing of the order. However, this order was modified on 9.9.1982 and he was removed with immediate effect.

2. The petitioner filed an appeal against this order. However, when no order was passed on his appeal. He filed original application before the U.P. Public Services Tribunal. This was dismissed on 21.8.1987. Hence the present writ petition.

3. We have heard Counsel for the petitioner and the Standing Counsel for the respondents.

4. The first charge-sheet contained 13 charges and the second charge-sheet contained only one charge. Majority of the charges in the first charge-sheet were personal to Dr. Rajeshwar Singh Chauhan, Deputy Director Food, Research and Training Centre, Basti. He was the complainant. Yet, he is the one who conducted the inquiry. The petitioner filed his objection against the show cause notice in which he raised this point that Dr. Rajeshwar Singh Chauhan ought not to have conducted the inquiry. Despite this objection his service was terminated by Dr,

Chauhan himself. In the circumstances of the case when Dr. Chauhan was himself complainant and majority of the charges were personal to him, he ought not to have conducted inquiry and when this was pointed out in reply to show cause notice, the inquiry ought to have been entrusted to another officer. Dr. Chauhan cannot be judge of his own cause. The entire proceeding of inquiry is against the principle of natural justice. In view of this inquiry report as well as termination order dated 11.8.1982 as modified on 9.9.1982 and the order of the Tribunal dated 21.8.1987 are hereby quashed.

5. We have quashed the inquiry report as well as removal order and the order of the Tribunal. However, we have not quashed the initiation of proceeding itself. The right procedure is to send the matter back for completing the inquiry and taking it to a logical conclusion. However, considering

- (i) More than 25 years has already passed.
- (ii) the charges which have been alleged against the petitioner.
- (iii) The fact that the petitioner after the charge-sheet was served, never raised his objection nor participated in the departmental proceeding.
- (iv) The petitioner has nowhere stated that he was not able to earn anything during this period.

It is just and proper to close the departmental proceeding against the petitioners with continuity in service, granting him 75% salary for the period that he could not work due to removal order. The amount may be given within a period of three months from the date of producing certified copy of this order. In case this amount is not given within the stipulated period then he will also be given 6% interest on the same after expiry of three months.

6. With the aforesaid observations, the writ petition is allowed.