
(2014) 07 AHC CK 0141

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 6827 (SS) of 2005

Pooran Chand Joshi

APPELLANT

Vs

U.P. Co-op. Institutional Service Board

RESPONDENT

Date of Decision : 28-07-2014

Acts Referred:

Citation : (2014) 3 UPLBEC 1841

Hon'ble Judges : Mahendra Dayal, J

Bench : Single Bench

Advocate : Amarendra Kumar Bajpai, Advocate for the Appellant; D.K. Srivastava and R.K. Chaudhary, Advocate for the Respondent

Final Decision : Allowed

Judgement

Mahendra Dayal, J.—This writ petition has been filed challenging the order dated 26.2.2005, whereby the petitioner was terminated from service. The facts giving rise to this writ petition are that the petitioner was initially appointed on a Group "D" post on 4.11.1993, by the opposite party No. 3, on ad hoc basis against the consolidated salary of Rs. 750/- per month. However, the service of the petitioner was discontinued on 16.4.1994 without any reason. Thereafter by another order dated 28.4.1994, the petitioner was again appointed on the same post, but for a definite period of three months. The opposite parties did not allow the petitioner to join the service in pursuance of the appointment order dated 28.4.1994. Having no other alternative the petitioner approached the Directorate of Public Grievances, by means of an application dated 30.11.1995 and on the recommendation of the Committee the petitioner was given appointment on ad hoc basis in the pay scale of Rs. 1600-3320. The petitioner after completing necessary formalities joined the post subsequently. By the order dated 28.4.1999, the petitioner was confirmed with effect from 14.7.1998. The petitioner has been an office bearer of Cooperative Bank Employees Union Uttar Pradesh, which was a registered association. The petitioner raised voice against the opposite party No. 4 who was illegally appointed on the non-existent post of

Chief Manager in the year 1995. This annoyed the opposite party No. 4 and resulted into the termination of the petitioner. In the year 2002, the then President of the City Unit of Cooperative Bank Employees Union, Sri Roop Narain Pandey, made another complaint to opposite party No. 5 with regard to certain irregularities prevailing in the bank due to corruption at the level of the Officers. The opposite party No. 7 was directed to conduct an enquiry into the charges levelled in the complaint, upon which, the opposite party No. 7 conducted a detailed enquiry and issued a notice to opposite party No. 3. The petitioner along with Roop Narain Pandey were placed under suspension in the month of June, 2004 but since there was no concrete charges against them, the Bank could not proceed with any enquiry. When the opposite party No. 4 could not succeed in setting up an enquiry against the petitioner, he in connivance with a lady Senior Manager of the Bank got another complaint lodged against the petitioner on 11.6.2004, in which it was alleged that the petitioner did not cooperate for carrying cash from Rajdhani Nagar Sahakari Bank Ltd. on its regular transit to the other Nationalized Bank for deposit in terms of the norms of Reserve Bank of India. It was stated in the complaint that Smt. Meeta Bose, Senior Manager was deputed on 11.6.2004 to carry cash from L.D.A. Colony Branch of the Bank to the Nationalized Bank for it being deposited. The petitioner was unnecessarily given a command to accompany them. When the petitioner refused to accompany them, on the pretext that in the absence of any written orders from the Branch Manager, the Authorized Officer, he is not supposed to take up such work, the petitioner was placed under suspension on 14.7.2004. Meanwhile the petitioner fell ill and the suspension order was not communicated to him, rather the same was placed on the notice board. Thereafter a notice was published in the Daily Newspaper.

2. After the submission of enquiry report, a show cause notice was issued to the petitioner, which could not be served upon him and ultimately the same was published in the Newspaper and thereafter by the impugned order the services of the petitioner were terminated.

3. I have heard learned Counsel for the parties and have gone through the pleadings of the parties.

4. The learned Counsel for the petitioner, Shri A.K. Bajapi, has submitted that the opposite party No. 4 had a grudge against him and the petitioner, being President of the Association, raised voice against the illegal appointment through the Association and this resulted into leveling of false charges against the petitioner, which ultimately culminated in his termination. It has further been submitted on behalf of the petitioner that the enquiry was never conducted in accordance with the rules and no prior approval was taken from Sewa Mandal as required by Rule 87. The entire enquiry is, thus, vitiated and termination order passed on the basis of the enquiry report is illegal. It is also a submission on behalf of the petitioner that the principle of natural justice has also not been followed and no show cause notice was issued to the petitioner.

5. The petitioner has drawn attention of the Court towards the enquiry report which has been annexed with the counter affidavit and on perusal of the enquiry report it indicates that even the charge levelled against the petitioner has not been mentioned in the enquiry report. It is also clear from the enquiry report that no oral evidence was lead during the enquiry and the petitioner did not participate in the enquiry.

6. The learned Counsel for the opposite parties, Shri R.K. Chaudhary, has on the other hand, submitted that the enquiry was conducted in accordance with the relevant rules and the petitioner never extended his cooperation in the enquiry, and as such, every time the notice had to be published in the Newspaper. Whenever the notices were sent to the petitioner, he refused to receive the same. The petitioner was having full knowledge of the enquiry pending against him, but he, knowingly, did not participate in the enquiry proceedings and the Enquiry Officer found him guilty of the charges. Thereafter show cause notice was issued to him, which was again refused by the petitioner and the same had to be published in the Newspaper, thereafter the termination order was passed. In the circumstance, the impugned order does not call for any interference and the same has been passed in accordance with law after following the prescribed procedure and the principle of natural justice.

7. As observed earlier, the enquiry report does not indicate the charges against the petitioner and no oral evidence was lead during the course of enquiry. The Enquiry Officer only contacted the complainant and considered several letters and on the basis of those letters, the charges were held proved and the enquiry report was submitted. A show cause notice was published in a Newspaper but the copy of the enquiry report was not provided to the petitioner. In these circumstances the impugned order of punishment suffers from manifest error of law and cannot be allowed to sustain. In the result, the petition succeeds and is allowed. The impugned order of termination dated 26.2.2005, passed by the opposite parties No. 3 and 4, contained in Annexure No. 1 to the writ petition, is hereby quashed. The petitioner shall be allowed to work on the post on which he is presently working and shall also be paid regular salary. However, it will be open for the opposite parties to proceed in accordance with law and the relevant rules.

There shall be no order as to costs.