
(2010) 10 SHI CK 0362
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 5520 of 2008

Prem Chand

APPELLANT

Vs

H.P. K.V.V. Palampur and Others

RESPONDENT

Date of Decision : 27-10-2010

Acts Referred:

Citation : (2010) 10 SHI CK 0362

Hon'ble Judges : Kurian Joseph, C.J;Kuldip Singh, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The disciplinary proceedings are initiated against the Petitioner on the basis of inquiry conducted against him and thereafter the Petitioner was issued Annexure A-8 memorandum. Paragraph 4 of the memorandum reads as under:

And Whereas on a careful consideration of the Inquiry Report, the undersigned has accepted the report. Since the charges stand proved as per report, a penalty of reduction to a lower stage of Rs. 1200/ - in the scale of Rs. 1200-2130 is imposed under Statutes 8.3(1)(b)(i) with immediate effect for a period of five years. Besides, recovery for Rs. 9,845.45 paise say Rs. 9,845/- only be also made. The period of suspension be treated as non-qualifying service.

2. Thus, it is seen that the present report has been accepted. However, in the same notice, the Petitioner was also given an opportunity to make a representation in the following manner:

Any representation on the basis of the evidence adduced during the inquiry, that he may wish to ask against the penalty proposed, will be taken into consideration by the competent authority/appointing authority before final orders are passed.

3. In response thereof, the Petitioner submitted detailed representation containing about 20 pages and that representation was considered by the appointing authority leading to the impugned order Annexure A-10 wherein it is

stated as follows:

and Whereas the reply dated 6.3.1998 of the said Sh. Prem Chand has been considered in detail. Since the representation made by him does not disclose any new facts as such, his representation is rejected after thorough examination and consideration.

4. We are afraid the impugned order does not satisfy the requirement of law and principles of natural justice. The Petitioner was given only one opportunity to make a representation touching the merits of the inquiry report as well. Be that as it may. The appointing authority before finalisation of the report should have considered the representation filed by the Petitioner on merits. The appointing authority has passed a cryptic order, where it required thorough examination.

5. Therefore, we set-aside the Annexure A-10 with a direction to the competent authority to apply its mind on the points raised in the reply and pass fresh order in the matter with notice to the Petitioner, adverting to the contentions taken by the Petitioner in Annexure A-9 representation, which shall be done within four months from the date of production of a copy of this judgment by the Petitioner.

6. With the above observations, the petition is disposed of, so also the pending application(s) if any.