

(2010) 12 UK CK 0210
In the Uttarakhand High Court
Case No : Writ Petition (S/B) No. 159 of 2002

Raghunath Singh Rana

APPELLANT

Vs

Chamoli District Cooperative Bank Ltd. and Others

RESPONDENT

Date of Decision : 01-12-2010

Acts Referred:

Citation : (2010) 3 UC 2038

Hon'ble Judges : Barin Ghosh, C.J.;V.K. Bist, J

Bench : Division Bench

Advocate : Mr. Pankaj Purohit, for the Appellant; Mr. N.S. Negi, Advocate for Respondent Nos. 1, 2 and 3, for the Respondent

Final Decision : Allowed

Judgement

Hon"ble Barin Ghosh, C.J.—On 3rd July, 1992, a charge sheet was issued, which was replied by the Petitioner on 31st July, 1992. Petitioner having denied the charges, on 5th August, 1992 an inquiry officer was appointed. On 21st August, 1992, Petitioner was suspended. On 16th January, 1993, the Inquiry Officer purported to submit his report. In that, he indicated that the date of inquiry was fixed on 27th August, 1992 and 28th August, 1992 and the fixation of the said dates had been communicated by him to the Petitioner under cover of his letter dated 11th September, 1992. It was stated in the inquiry report that since the Petitioner did not appear on 27th August, 1992 and on 28th August, 1992, the inquiry was concluded ex parte. In the inquiry report it was held that the charges stand proved. Even after preparation of the inquiry report, the Inquiry Officer purported to issue a second charge sheet on 18th January, 1993 and thereby repeated the original charges and with that added a few more. Petitioner gave a reply thereto.

Thereupon a second show cause notice was issued on 4th May, 1993. Petitioner gave a reply thereto on 21st May, 1993. The disciplinary authority thereafter did not move at all. Suddenly, it woke up and issued a show cause on 11th July, 2000, as to why the services of the Petitioner be not put to an end ? Thereafter,

on 1st February, 2002 by the order impugned, the services of the Petitioner were terminated.. The said state of affair clearly demonstrates that the order of termination dated 1st February, 2002 is not sustainable for the same is contrary to law and the rules governing the service condition of the Petitioner, inasmuch as, the alleged guilt of the Petitioner has been established without holding any inquiry and if held, behind the back of the Petitioner. We, accordingly, set aside the termination order dated 1st February, 2002 and direct the disciplinary authority to appoint an Inquiry Officer and to conclude the inquiry pertaining to the charges contained in the charge sheet dated 3rd July, 1992 in accordance with law within six months from the date of service of a copy of this order upon the disciplinary authority. In the event, within six months from the date of service of a copy of this order upon the disciplinary authority, the disciplinary proceedings are not concluded in accordance with the rules governing the service condition of the Petitioner, it shall be deemed that the disciplinary authority has voluntarily abandoned the disciplinary proceedings initiated against the Petitioner by issuing the charge sheet dated 3rd July, 1993. The Petitioner is directed to cooperate in the proceeding and it is made clear that in the event Petitioner does not attend the inquiry, despite having been served due notice thereof, it shall be open to proceed with the inquiry ex parte.

2. Since the order dated 1st February, 2002 stands quashed, it shall be deemed that the status of the Petitioner as prevalent immediately before 1st February, 2002 stands revived and, accordingly, the Petitioner should be deemed to be on suspension and, accordingly, shall be paid subsistence allowance in accordance with the rules. The arrears of subsistence allowance be paid to the Petitioner as quickly as possible but not later than the first day of holding of the inquiry pursuant to the above order. In the event, no inquiry, pursuant to the liberty as granted by this order, is held, it shall be deemed that for no just reason the Petitioner was suspended and, accordingly, his suspension order shall automatically stand revoked after expiry of the period as mentioned above and it shall be deemed that the Petitioner was in service, entitled to all benefits of service despite the said suspension order and will, accordingly, be entitled to salaries payable from the date of suspension until the date mentioned above less subsistence allowances, if any, already paid.

3. This disposes of the writ petition.