(2016) 05 AHC CK 0278

In the Allahabad High Court

Case No : Civil Misc. Writ Petition (Service Single) No. 10337 of 2016

Raj Kishore Prasad Verma — APPELLANT

Vs

U.P. State Food & Essenrtial Commodities Corporation Ltd. — RESPONDENT

Date of Decision : 13-05-2016

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2016) 10 ADJ 217

Hon'ble Judges : Rajan Roy, J.

Bench : Single Bench

Advocate : Piyush Chandra Agarwal and Rajesh Tiwari, Advocates, for the Petitioner; Prakash Singh, Advocate, for the Respondents

Final Decision : Allowed

Judgement

Rajan Roy, J.—Heard learned counsel for the parties.

2. In the earlier writ petition of the petitioner i.e. Writ Petition No. 642(SS) of 2016 this Court had passed the following order on 14.01.2016:-

"Heard.

The petitioner herein challenges the order of his suspension from service dated 27.2.2015 (Annexure-1 to the writ petition).

According to the petitioner, no charge-sheet has been issued as yet. It is further stated that prolonged suspension is unjustified.

On the other hand, Sri Prakash Sigh, learned counsel appearing for the opposite parties submits that the charge-sheet shall be issued within one week and the proceedings shall be completed within next three months.

In these circumstances, the court declines to interfere with the suspension order at this stage subject to the condition that the charge-sheet shall be issued to the petitioner within ten days and the disciplinary proceedings shall be completed within next three months. The petitioner shall cooperate with the same.

It is further provided that if the charge-sheet is not issued within ten days, then the suspension order shall stand revoked and the petitioner shall be reinstated in service and paid salary. However, it shall be open for the opposite parties to take such work as they deem appropriate or not to take work.

With the above observations/directions this writ petition is disposed of."

3. In pursuance thereto the charge sheet was provided to the petitioner within 10 days, therefore, he continued under suspension. The Inquiry Officer submitted his report on 19.02.2016 wherein he was exonerated. The Disciplinary Authority vide his order dated 14.03.2016 (wrongly referred as 14.03.2014) disagreed with the inquiry report and ordered a fresh inquiry. He appointed another Inquiry Officer for this purpose.

4. The contention is that the order dated 14.03.2016 is in violation of Rule 36 of the Model Service Rules prepared by the Bureau Public Enterprises as no reasons have been given in support thereof.

5. Shri Prakash Singh, learned counsel for the Corporation does not dispute that the rules relied upon by the petitioner are applicable to his case.

6. Rule 36 itself requires that if the Disciplinary Authority is not the Inquiry Officer himself then he may order afresh or further inquiry for reasons to be recorded by him.

7. A perusal of the impugned order does not reveal any reason for ordering a fresh inquiry except that the facts mentioned by the Inquiry Officer are not clear and as the matter involves loss to the Corporation to the tune of Rs. 1,01,58,572.65, therefore, he ordered fresh inquiry.

8. The giving of reasons requires application of mind by the Disciplinary Authority. Such cryptic and telegraphic observation do not satisfy the requirement of Rule 36 referred herein above.

9. As far as the contention of learned counsel for the petitioner that the period of three months stipulated by this Court in its earlier judgment has expired on 24.04.2016, therefore, the proceedings ordered by the Disciplinary Authority, even otherwise, can not go on, is concerned, considering the allegations against the petitioner in the light of the Full Bench Decision of this Court rendered in Abhishek Prabhakar Awasthi v. New India Insurance Limited and others reported in 2014 (32) LCD 405 this Court would like to give one opportunity to the Disciplinary Authority to pass a fresh order in terms of Rule 36 of the Rules above mentioned after due application of mind and thereafter if he orders a fresh or further inquiry, the same should be completed within the next three months as the allegations relate to financial irregularity.

10. The equities can be balanced by reinstatement and revocation suspension of the petitioner which is also under challenge, however, with liberty to the

Corporation to take work from him or not to take work but pay him full salary as he can not remain suspended indefinitely as he is under suspension from 27.02.2015.

11. In view of the above, the impugned orders dated 27.02.2015 and 14.02.2016 are quashed, however, liberty is granted to the Disciplinary Authority to revisit the matter and take a fresh decision in the light of the observations made herein above and Rule 36 of the relevant rules. Therefore, consequences shall follow as observed herein above and if the new inquiry or further inquiry is ordered as the case may be, the same shall be completed within the next four months. The petitioner shall cooperate in the same.

12. With the aforesaid observations, the writ petition is disposed of. There shall be no orders as to costs.

