
(1997) 09 AHC CK 0180
In the Allahabad High Court
Case No : C.M.W.P. No. 30804 of 1997

Ram Adhar Yadav

APPELLANT

Vs

District Development Officer, Jaunpur and another

RESPONDENT

Date of Decision : 16-09-1997

Acts Referred:

Citation : (1998) 1 AWC 345 : (1998) 79 FLR 485 : (1997) 3 UPLBEC 1973

Hon'ble Judges : D.K. Seth, J

Bench : Single Bench

Advocate : Arun Sharma, for the Appellant;

Final Decision : Disposed Of

Judgement

D.K. Seth, J.—In contemplation of an enquiry on the basis of charges as indicated in the order dated 6.8.1997, the petitioner has been suspended by the District Development Officer, Jaunpur with whom he had worked during the periods 1994-95 and 1995-96. The charges also related to the period during which the petitioner was posted at Jaunpur. Admittedly, the petitioner had in the meantime been transferred to some other place in District Ballia and had been working under the District Development Officer, Ballia, By an order dated 6.8.1997, he has been sought to be suspended by District Development Officer, Jaunpur.

2. Learned counsel for the petitioner contends that the District Development Officer, Jaunpur is not competent to issue the order of suspension when the petitioner is posted at Ballia under the District Development Officer, Ballia. Since he has been transferred to the District Ballia, the District Development Officer, Jaunpur cannot be the controlling officer of the petitioner with regard to the service conditions though he agreed that there was no bar in proceeding against the petitioner by the said authority.

3. Learned standing counsel contends that charge-sheet has already been served and the enquiry has been related to the period during which the petitioner was

posted at Jaunpur, therefore, the District Development Officer is the competent authority to suspend the petitioner. He contends that District Development Officer, Ballia cannot suspend the petitioner on account of initiation of departmental proceedings in Jaunpur. He relies on the report contained in Annexure 2 to the writ petition whereby the suspension was suggested by the Block Development Officer, Jaunpur on the finding that there are sufficient materials to proceed against the petitioner departmentally.

4. Heard learned counsel for the parties. It appears that admittedly, the petitioner is now posted at Ballia under the control of District Development Officer, Ballia. The District Development Officer, Jaunpur does not have jurisdiction over the service of the petitioner now. The enquiry is related to the period during which the petitioner was posted at Jaunpur. Therefore, there is no bar in proceeding departmentally against the petitioner by the District Development Officer, Jaunpur. But the question remains as to whether he can suspend the petitioner who had admittedly been transferred outside his control. As soon a person is transferred outside the jurisdiction of his controlling officer, though he may contemplate an enquiry and hold the same but he has no competence to suspend him. Though he may secure the suspension of the petitioner through the District Development Officer, Ballia through proper procedure but he cannot do it himself when the petitioner is no more under him. Then again the question of suspension is related to the fact that the delinquent may have access to the office and the presence of the delinquent may embarrass the enquiry. Since in the present case, the delinquent has been posted outside the District, those questions are no more in existence. However, I am not inclined to enter into those questions at this stage.

5. In the view of the matter, so far the order of suspension is concerned, the same shall be kept in abeyance unless proper order of suspension is issued by the appropriate authority. This order, however, will not prevent the respondents from proceeding with the enquiry in any manner. The petitioner shall participate and co-operate in the enquiry. It is expected that the authority shall complete the enquiry as early as possible.

6. With this observation, this writ petition is disposed of.

7. There will, however, be no order as to costs.