
(1984) 08 AHC CK 0043
In the Allahabad High Court
Case No : Writ Petition No. 3461 of 1984

Ram Narain Tewari

APPELLANT

Vs

Joint General Manager (Admn-Personnel) and Another

RESPONDENT

Date of Decision : 01-08-1984

Acts Referred:

Constitution of India, 1950 — Article 311(1)

Citation : (1984) 08 AHC CK 0043

Hon'ble Judges : K.N.Goyal, J and S.C.Mathur, J

Final Decision : Allowed

Judgement

K.N. Goyal, J.

1. The petitioner has come to this court against an order of suspension in contemplation of an inquiry passed against him on 25.6.1984 by the Joint General Manager of the U.P. State Road Transport Corporation. His appointing authority was the Regional Manager, an authority lower in rank than the Joint General Manager. His contention is that, the order was passed by an incompetent authority and, as such, is void.

2. The SRTC was served through counsel who has put in his appearance. We had indicated in the last order that a short legal question was involved and the case shall be finally decided at the admission stage.

3. Admit..

4. The facts are not disputed. The official's appointing authority was the Regional Manager. The Board of Directors of the SRTC had passed a resolution No. 430/76 empowering the General Manager also to pass orders of suspension and to initiate disciplinary action against categories of persons whose appointing authority is lower than "the" Chairman and the General Manager. No such delegation order has been made in favour of the Joint General Manager. Learned counsel for the SRTC, Shri Kalia, has stated that on the date on which the order was passed, the General Manager was out of station and the Joint General

Manager was discharging his duties. A perusal of the order impugned, however, shows that the orders have been passed by the Joint General Manager as such and not as officiating General Manager. As such, the resolution of delegation relied pa by the learned counsel for SRTC does not help the opposite parties.

5. It has been brought to our notice that the Hon"ble Supreme Court in Sampuran Singh v. State of Punjab (1982) 3 SCC 200 has held that an order of dismissal or removal can be passed even by an authority superior to" the appointing authority. They have given this decision on the interpretation of Article 311 (1) of the Constitution which lays down that no authority subordinate to that by which a person was appointed shall pass an order of his dismissal or removal. From the language of this provision their lordships have held that it followed that an authority higher in rank than the appointing authority can pass an order of dismissal or removal. The language of the regulation 67 of the UPSRTC Employees (other than officers) Service Regulation, 1981, however provides that an order of suspension can be passed either by the appointing authority or by any other authority empowered in this behalf by the Board. Thus, the ratio of the decision in Sampuran Singh does not apply to the regulation under consideration

6. In the result the writ petition is allowed and the order of suspension dated 25.6,84, Annexure1, is hereby quashed. It will, however be open to the competent authority to pass any fresh orders in accordance with law. No order is made as to costs.

(Petition allowed)