
(1984) 12 AHC CK 0046
In the Allahabad High Court
Case No : Writ Petition No. 6648 of 1983

Ram Verma

APPELLANT

Vs

Distt.Assistant Registrar and others

RESPONDENT

Date of Decision : 04-12-1984

Acts Referred:

Citation : (1984) 12 AHC CK 0046

Hon'ble Judges : K.N.Goyal, J and B.Kumar, J

Final Decision : Allowed

Judgement

K. N. Goyal, J.—Admit.

2. As counter affidavit and rejoinder affidavit have already been exchanged and parties' counsel have been heard, we proceed to dispose of the petition finally.

3. The petitioner was a Sachiv of Sadhan Sahkari Samiti. He was suspended and, thereafter, chargesheeted. In reply to the chargesheet dated 14/151084, Annexure No. 1, the petitioner asked for an opportunity to look into the relevant documents. His letter to that effect is Annexure No. 2, dated 21983. This is said to have been followed by a reminder dated 131083, Annexure No. 3. According to the opposite parties, they sent a letter No. 2705 dated 14/241083 asking the Branch Manager to allow the petitioner to inspect the documents and endorsed with a copy of this letter to the petitioner so that he may contact the Branch Manager for the purpose. This was sent to the petitioner by a registered post but the petitioner managed to avoid service thereof. Ultimately a resolution was passed on 161183 by the District Administrative Committee to the effect that the petitioner had failed to reply to the chargesheet and because he failed to avail the opportunity granted to him to rebut the charges, it had been decided to dismiss the petitioner from service. This resolution is Annexure No. 4. Aggrieved thereby, the petitioner has come to this Court.

4. The contention of the petitioner is that letter Annexure No. C1, dated 14/241083 was never tendered to him and that it was wrongly addressed to his

village as he had been asked to report at the headquarters. On behalf of the opposite parties, it has been pointed out that the petitioner had always been avoiding service of communications in connection with disciplinary proceeding and a notice also had to be published in the weekly newspaper "DADHICHI" dated 3rd August, 1983 and as the petitioner had failed to reply to the charges, it could be deemed that the charges were correct and on that basis the petitioner could be dismissed.

5. Having heard the learned counsel for the parties, we are of the opinion that even if the petitioner was avoiding service of communications from the opposite parties, an order of dismissal could only be passed on the basis of an ex parte enquiry and on ex parte proof of the charges. The resolution Annexure No. 4 does not show that any enquiry was held ex parte. It does not even show what the charges were or that the Committee was satisfied on the basis of perusal of the relevant documents that they stood proved. Not only this, the Committee has proceeded on the presumption that in view of the petitioner's failure to reply it was not required to establish the charges. The casual manner in which the Committee has proceeded is indicated by the fact that the letter dated 14/241083, Annexure No. CI, is mentioned by them as the letter containing chargesheet. They had thereafter referred to a notice published in weekly newspaper "DADHICHI" dated 3rd August, 1983 as if it was a show cause notice issued subsequently to the chargesheet, although actually it was a reminder of a notice requiring explanation. The letter dated 141083 does not contain any chargesheet but, as noticed earlier, was a sequel to the petitioner's letter dated 21983, Annexure No. 2, in which he had asked for an opportunity to inspect the documents. In this view of the matter, the order of dismissal, Annexure No. 4, cannot be sustained.

6. In the result the petition is allowed and the order of dismissal, Annexure No. 4, dated 161183 is hereby quashed. It shall be open to the opposite parties to proceed further in respect of disciplinary action from the stage where the case was before the said resolution was passed. In view of the dispute about the petitioner's alleged avoiding of service of communications from the opposite parties, we direct that the petitioner shall appear before District Assistant Registrar, Sitapur on 1st of January, 1985 at 11 A. M. to take further orders from him.

7. Copies of this order be given to the parties by 7th of December, 1984 on payment of necessary charges.

(Petition allowed)