
(2011) 03 DEL CK 0012

In the Delhi High Court

Case No : Writ Petition (C.) No. 1408 of 2011

Sanjeev Verma

APPELLANT

Vs

District and Session Judge and Another

RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 120B, 170

Citation : (2011) 03 DEL CK 0012

Hon'ble Judges : M.L. Mehta, J;A.K. Sikri, J

Bench : Division Bench

Advocate : Nagender Deswal, for the Appellant; Avnish Ahlawat and Latika Chaudhary for Respondent No. 1 and Rajiv Bansal, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Sikri, J.—The Petitioner herein was appointed as Lower Division Clerk (Ahlmad) by the Court of District & Session Judge, Delhi. At the relevant time, in March 2004, the Petitioner was posted as Ahlmad in the Court of Special Metropolitan Magistrate, Parliament Street, New Delhi. On 15th March, 2004, a raid was conducted and one person, namely, Shri Sunil Verma, was found in the room of the Ahlmad of the Court of Special Metropolitan Magistrate, Parliament Street, New Delhi, who was allegedly personating himself as the Ahlmad of the Court. The Petitioner was suspended immediately vide orders dated 16th March, 2004. The charges framed against the Petitioner inter alia stipulated that while working in the Court of Shri S.C. Sareen, Special Metropolitan Magistrate, Parliament Street, New Delhi, the Petitioner had engaged another private person, namely, Shri Sunil Verma, to work on the seat of Ahlmad unauthorisdelly in his place. We may note here that the raid was conducted by a team consisting of Shri R.K. Ahluwalia, Registrar (Vigilance) of this Court and Shri D.K. Batra, Joint Registrar (Vigilance) of this Court along with Sub Inspector, Shri Rakesh Yadav, and other police officials of the Parliament Street Police Station, who had gone for surveillance and had found Shri Sunil Verma working on the seat of the

Petitioner and handling traffic challans unauthorisedly in place of the Petitioner. On this charge, inquiry was conducted. During the enquiry, it also transpired that Shri Sunil Verma was engaged by the Petitioner. An FIR bearing No. 63/2004 u/s 170, 120B of the Indian Penal Code was also registered against the Petitioner at the Police Station Parliament Street. The Petitioner was arrested in the said criminal case and remained in judicial custody for a period of 28 days before he was granted bail.

2. Thereafter the District & Sessions Judge as Disciplinary Authority decided to initiate departmental inquiry against the Petitioner for which memo of chargesheet dated 22nd March, 2005 was served upon the Petitioner. Inquiry was conducted into the aforesaid charges wherein six witnesses were examined by the Department. The Petitioner also appeared as a witness. After the completion of the inquiry, the Inquiry Officer submitted his report dated 15th September, 2008 to the Disciplinary Authority. After receiving this report, same was forwarded to the Petitioner with opportunity to make representation, if any, against the same. The Petitioner preferred his representation dated 24.09.2008. Thereafter, the Petitioner was also granted personal hearing by the Disciplinary Authority, which led to passing of the impugned orders dated 04.07.2009 by the District & Sessions Judges in his capacity as the Disciplinary Authority. Vide this order, the Petitioner was inflicted with the penalty of compulsory retirement with immediate effect. Simultaneously, it was also ordered that the Petitioner will not receive any benefits more than what he had already received during the period of suspension.

3. The Petitioner preferred an administrative appeal against this order, which has been dismissed by the Appellate Authority vide order dated 21.10.2010. Challenge to both these orders, namely, one passed by the Disciplinary Authority and other by the Appellate Authority, present writ petition is preferred under Article 226 of the Constitution of India.

4. Learned Counsel for the Petitioner submitted that in the representation made by the Petitioner against the findings of the Inquiry Officer in the inquiry report, the Petitioner had categorically challenged those findings and has also stated that the findings arrived at were not in accordance with law inasmuch as different witnesses had given different versions. His grievance is that the Disciplinary Authority did not go into this aspect at all and did not discuss the representation and, therefore, the order suffers from this infirmity and is liable to be set aside. He further argues that even the Appellate Authority did not consider this aspect.

5. This argument, though appears to be attractive in the first blush, loses its sheen when the developments, which took place during the oral hearing given by the Disciplinary Authority to the Petitioner, are taken note of. It would be material to note in this behalf that when the Petitioner appeared before the Disciplinary Authority on affording personal hearing, the Petitioner made a categorical statement that he was not challenging the findings of the Inquiry

Officer and instead prayed for a lenient view on the ground that he remained in jail for about 28 days in a criminal case registered against him. With this statement, it becomes obvious that the Petitioner gave up his challenge to the findings, which were arrived at by the Inquiry Officer holding him guilty of the charges. His only plea before the Disciplinary Authority was that a lenient view should be taken. In fact, going by this statement of the Petitioner, the order of the Disciplinary Authority reveals that in fact a lenient view was taken. The Disciplinary Authority has categorically observed that the charge established against the Petitioner was very serious, which made him liable under the criminal law as well. It inflicted on his integrity. In addition, the Petitioner had committed a serious misconduct by handing over judicial record to an outsider. However, still going by the plea of the Petitioner to take lenient view, the Disciplinary Authority chose to impose the penalty of compulsory retirement as mentioned above. In the aforesaid circumstances, it is not open to the Petitioner to contend that the pleas raised by him in the representation were not given due consideration by the Disciplinary Authority. We may record here that this aspect was raised before the Appellate Authority as well and the Appellate Authority stated, while rejecting the appeal of the Appellant, that when the Petitioner had given up his challenge to the findings of the Inquiry Officer and had rather prayed for a lenient view, the order of the Disciplinary Authority did not suffer from any infirmity. We are quite in agreement with the aforesaid view taken by the Appellate Authority. It is also recorded by the Appellate Authority that the Petitioner had failed to disclose any bias or prejudice of the Disciplinary Authority against the Petitioner as to why such an admission would be recorded by the Disciplinary Authority in the impugned order.

6. Thus, we do not find any merit in the writ petition, which is dismissed in limine.

7. At this stage, learned Counsel for the Petitioner submits that though the order of compulsory retirement was passed on 04.07.2009, the terminal dues of the Petitioner has not been settled so far though he has fulfilled all the formalities. He, thus, requests that decision in this regard be taken and admissible dues be paid in a time-bound manner. We find this request of the Petitioner to be quite reasonable. The Disciplinary Authority shall calculate the terminal dues, which are payable to the Petitioner under different heads. It will also be examined as to whether the Petitioner is entitled to pension having regard to the number of years of service put by the Petitioner. Order in this regard shall be passed within a period of two weeks and the terminal dues shall be paid within four weeks thereafter.

8. Needless to mention, if the Petitioner feels aggrieved against the quantum of terminal dues offered to him, he would be at liberty to challenge the order in accordance with law.

9. Copies of this order be given to the counsel for the parties under the signatures of the Court Master of this Court.