
(2003) 01 AHC CK 0114
In the Allahabad High Court
Case No : C.M.W.P. No. 9951 of 2002

State of U.P. and Others

APPELLANT

Vs

Gulab Shanker Srivastava and Another

RESPONDENT

Date of Decision : 30-01-2003

Acts Referred:

Citation : (2003) 2 AWC 1156 : (2003) 97 FLR 69 : (2003) 2 LLJ 826

Hon'ble Judges : Prakash Krishna, J;M. Katju, J

Bench : Division Bench

Advocate : S.C. Yadava and S.C, for the Appellant; Shirish Kumar, Sunil Sharma and Ramesh Upadhyay, for the Respondent

Final Decision : Dismissed

Judgement

M. Katju, J.—Heard learned counsel for the petitioner and Sri Ramesh Upadhaya learned counsel for the respondent No. 1.

2. The petitioner has challenged the impugned order of the U. P. Public Service Tribunal dated 28.2.1998 Annexure-1 to the writ petition.

3. The respondent No. 1 was Assistant Director of Education, U. P., and he was suspended on 26.4.1988 and thereafter he was charge-sheeted on 2.1.1989 and he gave a reply to the charge-sheet on 7.5.1990. True copy of the charge-sheet is Annexure-4 to the Claim Petition, copy of which is Annexure-2 to the writ petition. True copy of the reply of the respondent No. 1 to the charge-sheet is Annexure-11 to the Claim Petition.

4. It appears that thereafter no notice was given to the petitioner informing him of the date, time and place of enquiry and the punishment order was passed on the basis of the reply given by the petitioner. The petitioner filed a Claim Petition before the U. P. Public Service Tribunal, which has been allowed. In paragraph 17 of the impugned order of the Tribunal, it has been mentioned that the Enquiry Officer did not inform the petitioner about the date, time and place of the enquiry. In our opinion, this itself vitiates the entire enquiry proceedings being in

violation of the principles of natural justice vide Subhash Chandra Sharma Vs. Managing Director, U.P. Co-op. Spg. Mills Federation Ltd., Kanpur and another, ; Subhash Chandra Sharma v. U. P. Co-operative Spinning Mills and Ors. 2001 (2) UPLBEC 1474 ; Sahngoo Ram Arya Vs. Chief Secretary, U.P. and Others, In these decisions, it has been held that if a dismissal order is passed without intimating the petitioner the date, time and place of the inquiry, the order will be in violation of the principles of natural justice.

5. The decision in Subhash Chandra Sharma v. Managing Director and Anr. (supra) has relied on several decisions of the Supreme Court e.g., Meenglas Tea Estate Vs. Its Workmen, ; S.C. Girotra Vs. United Commercial Bank (UCO Bank) and Others, : The Punjab National Bank Ltd. Vs. Its Workmen, ; A. C. C. Ltd. v. Their Workmen (1993) II LLJ 396 ; Tata Oil Mills Co. Ltd. v. Their Workmen (1963) II LLJ 78 ; The Imperial Tobacco Company of India Ltd. Vs. Its Workmen, and Uma Shankar v. Registrar 1992 (65) FLR 674.

6. In view of the above decisions, we see no illegality in the impugned order of the Tribunal. The petition is dismissed.