
(1995) 03 AHC CK 0080
In the Allahabad High Court
Case No : Writ Petition No. 5435 of 1993 (S/S)

STATE OF U.P.and others

APPELLANT

Vs

Chinta Haran Pathak

RESPONDENT

Date of Decision : 31-03-1995

Acts Referred:

Citation : (1995) 03 AHC CK 0080

Hon'ble Judges : I.P.Vasishth, J

Final Decision : Dismissed

Judgement

1. P. Vasishth, J.—Services of the private respondent No. 1 Chinta Haran Pathak, from the post of Milk Supervisor, Government Dairy, Agra were dispensed with under order of dismissal dated 31121980, affirmed in appeal on 23111983 in pursuance to an adverse report of the inquiry authority on the charges of misconduct. The dismissal was set aside by the Services Tribunal under impugned order Annexure 1 with the writ petition; feeling aggrieved against which the State has approached this Court by way of writ proceedings under Article 226 of the Constitution of India.

2. The moot point involved in the case is as to whether the Inquiry officer could proceed on the basis of chargesheet Annexure 5 issued under his own signatures. To be precise, the chargesheet was neither issued nor ever approved by the appointing authority and it is no body's case that the service rules applicable to the case authorised the Inquiry Officer to issue the chargesheet.

3. The learned Standing Counsel tried to make out an authority for Inquiry Officer to issue the chargesheet under orders dated 831977 passed on letter Annexure 2, order dated 2531977 Annexure 3 and letter dated 1641977 Annexure 4. His effort appears to be misconceived because the orders on Annexures 2 and 3 do not go beyond appointment of the Dairy Engineer as the Inquiry Officer; whereas letter Annexure 4 is in the nature of a direction to the Supervising Officer of the delinquent employee to send all the relevant papers in a confidential manner to the Inquiry Officer to facilitate early action.

4. Since the appointing authority neither issued the chargesheet nor ever accorded its approval thereto explicitly or by necessary implication therefore, the Tribunal was fully justified in concluding that the orders of dismissal suffered the lack of jurisdiction and as such, were illegal. The legal proposition is further borne out from the ratio of Pradyat Kumar Bose v. The Hon"ble The Chief Justice of Calcutta High Court (1955) 2 SCR (Supreme Court Reports) 1331. Paresh Chandra v. Collector of Calcutta 1979(1) Service Law Reporter 44 and I. S.Ahuja v. State of Punjab and others 1990 (4) Service Law Reporter 140.

5. Hence for the reasons recorded above, for want of merit the writ petition fails and is accordingly dismissed. There would however, be no order as to costs.

(Petition dismissed)