

(2012) 03 UK CK 0102

In the Uttarakhand High Court

Case No : Writ Petition No. 162 of 2007 (S/B)

State of Uttarakhand and Others

APPELLANT

Vs

Bal Krishna Mishra and Another

RESPONDENT

Date of Decision : 14-03-2012

Acts Referred:

Citation : (2012) 03 UK CK 0102

Hon'ble Judges : Barin Ghosh, C.J;Umesh Chandra Dhyani, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Barin Ghosh, C.J.—A charge-sheet was issued to respondent No. 1. In that, two charges were levelled. In the first charge, it was contended that respondent No. 1 was found in possession of unaccounted for money amounting to Rs. 2,84,900/-. The second charge was that respondent No. 1 gave an unacceptable explanation to the effect that he was carrying the money amounting to Rs. 2,84,900/- belonging to the Department for the purpose of paying the same to the rightful person entitled to receive the same. In his reply to the charge-sheet, respondent No. 1 stated that he was not carrying any money in cash, but he was carrying two bank-drafts for being delivered to the contractor at Dehradun, after obtaining sample of the wire from the contractor. It was stated that his journey was sanctioned and approved by his superior authority. An Inquiry Officer inquired into the charges and found that the same stand proved. On the basis thereof, a punishment order was passed, which was assailed before the Tribunal. The Tribunal quashed the punishment order, against which the present writ petition has been filed. On the writ petition, an interim order was passed staying the operation of the order of the Tribunal. Respondent No. 1 has filed two applications; one for vacating the interim order and the other for listing the writ petition for early hearing. Inasmuch as the writ petition is of 2007, we inquired of the Learned Counsel for the petitioners, whether he is ready to argue the writ petition on merit. The Learned Counsel submitted that he is ready to argue the

writ petition on merit and, accordingly, we have heard the Learned Counsel for the writ petitioners as well as the Learned Counsel for respondent No. 1. We have also perused the records and found that in course of inquiry, it could not be established that respondent No. 1 was carrying any cash, far less Rs. 2,84,900/-. In the circumstances, the one and the only conclusion, which can be legally drawn is that the very basis of both the charges fell flat. That being the situation, the Inquiry Officer could not report that the charges stand proved. The report of the Inquiry Officer to the effect that the charges stand proved are based on surmises and conjectures, as no prudent person, informed of the informations as were available to the Inquiry Officer, i.e. those which were on record, could opine that either of the charges stands proved. The Disciplinary Authority, before issuing the order of punishment, did not consider the materials on record to ascertain, whether as a prudent person, he can accept the findings recorded by the Inquiry Officer and, thereby, refused to act in the manner as he was expected to act. For these reasons principally, the Tribunal has quashed the punishment order. We have not been persuaded to take a different view. The writ petition fails and the same is dismissed. Stay is vacated.