
(1999) 04 AHC CK 0089
In the Allahabad High Court
Case No : C.M.W.P. No. 17201 of 1999

Sunil Kumar Tyagi

APPELLANT

Vs

U.P. Khadi and Village Industry Board and another

RESPONDENT

Date of Decision : 22-04-1999

Acts Referred:

Citation : (1999) 2 AWC 1663 : (1999) 82 FLR 671 : (1999) 2 UPLBEC 1118

Hon'ble Judges : A.K. Yog, J

Bench : Single Bench

Advocate : A.S. Rai, for the Appellant; Rajiv Sharma, for the Respondent

Judgement

A.K. Yog, J.—Heard Sri A. S. Rai, Advocate learned counsel for the petitioner and Sri Rajiv Sharma, learned counsel for the respondent Nos. 1 and 2.

2. Taking into account the attending history of the present case, it appears that petitioner was not pulling on well with his superiors and a transfer order dated August 11, 1998, was passed, which was quashed by this Court vide Judgment and order dated September 2, 1998 (Annexure-14 to the petition). It also appears that in the year 1999, some complaint was made and a criminal case was lodged after he was arrested by laying trap while allegedly taking bribe. It is not relevant at this stage in the present proceedings to go into the merits of the earlier action of the parties. Presently petitioner is serving at Oral. The respondents have passed the impugned order of suspension dated April 6, 1999 (Annexure-22 to the petition) regarding alleged charge pertaining to 1997 during the tenure of his working at Lalitpur. The suspension order, however, does not show that working of the petitioner at Oral will be detrimental in fair and impartial holding of enquiry. The impugned order of suspension has been passed in routine manner since the petitioner is working at place (Oral) away from Lalitpur in respect of which he has committed alleged embezzlement. Apparently, there is no apprehension of any evidence or material being interfered or tampered as such.

3. Learned counsel for the respondents has contended that in view of the fact petitioner is being arrested by laying trap and that he was transferred by the authority other than the authority which had initiated present disciplinary proceedings, the petitioner's contention does not hold good.

4. After considering entire facts and circumstances of the case, particularly the fact that the petitioner is now working at Oral a place other than the place (Lalitpur) where alleged embezzlement is said to have been committed by the petitioner, there is no danger of enquiry being interfered by the petitioner in any manner. Secondly, charge is of the year 1997. Suspension order dated April 6, 1999, is after 15 months. Courts have now and then cautioned in such matters requiring the concerned authorities not to pass suspension order merely on suspicion or mere receipt of complaint. The suspension too entail serious consequences.

5. However, the respondents are directed to ensure that the disciplinary proceedings, proposed to be initiated, shall be concluded by giving a charge-sheet and following the procedure contemplated under law within six months of serving a charge-sheet. It shall, however, be open to the employer (respondent) to exercise its power of suspension in case they come to the conclusion that continuance of the petitioner in office shall, in any manner, adversely affect impartial or expeditious holding of the enquiry. It is also made clear that respondents shall allow the petitioner to resume his duties and discharge his function ignoring the impugned order of suspension dated 6th April, 1999 (Annexure-22 to the petition) and pay his salary month by month in accordance with law unless otherwise an order is passed in the circumstances indicated above.

6. The writ petition is allowed subject to the observation made above. The impugned order of suspension dated 6th April, 1999 (Annexure-22 to the petition) is hereby quashed. No order as to costs.