
(1996) 05 AHC CK 0032
In the Allahabad High Court
Case No : C.M.W.P. No. 5297 of 1994

Surya Bali Ram

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 24-05-1996

Acts Referred:

Citation : (1996) 05 AHC CK 0032

Hon'ble Judges : S.R. Alam, J; R.A. Sharma, J

Bench : Division Bench

Advocate : S.K. Pal and P.K Dwivedi, for the Appellant; R.N. Ojha and S.C., for the Respondent

Final Decision : Allowed

Judgement

R.A. Sharma, J.—Petitioner, who is Secretary of U.P. Primary Agricultural Co-operative Society, filed Writ Petition No. 38570 of 1992 before this Court, challenging the order of his suspension, passed on 30.5.1992. This petition was dismissed with the direction to the Respondents "to complete the disciplinary proceedings within four months from the date of production of the certified copy of this order before them. "In paragraph 8 of the counter-affidavit, it has been stated that the aforesaid judgment of this Court was served on the Respondents on 18.9.1992 on the basis of which Respondent No. 3 directed the Inquiry Officer to submit a charge-sheet within a week. The Inquiry Officer, however, submitted the charge-sheet on 25.9.1992, i.e., after more than four months from the date of receipt of the certified copy of the judgment of this Court. When this Court required the Respondents to complete the disciplinary proceedings within four months from the date of receipt of certified copy of this Court's order, the Respondents have not even prepared the charge-sheet during that period. It is a case of gross negligence on their part. Even after the charge-sheet was submitted, it was not served on the Petitioner and the allegations made in the counter-affidavit are that it was sent to the Petitioner at his home address, but it was received back unserved. Thereafter the District Administrative Committee

took a decision on 31.1.1993 to serve the charge-sheet on the Petitioner again. Petitioner has stated in his rejoinder affidavit that he has received the charge-sheet from his counsel. We have been informed by the learned Counsel for the parties that disciplinary inquiry has not been completed so far. The Respondents are responsible for undue delay in serving the charge-sheet and completing the disciplinary inquiry against the Petitioner. They are also guilty of not completing the inquiry within the time specified by this Court. Presuming that the Petitioner after receipt of the charge-sheet may to some extent be responsible for delay; but then it was open to the Respondents to complete the inquiry ex parte and pass appropriate order. There is no plausible explanation given by the Respondents for causing undue delay and for not complying with the order of this Court.

2. It is true that if a person's writ petition has been dismissed earlier, second writ petition on the same facts will not lie; but suspension is a continuing cause of action and it is open to the person aggrieved to challenge it again before this Court on the ground of inordinate delay in the proceedings. Reference, in this connection, may be made to decision of a Division Bench in *Munna Lal Tewari v. State of U.P. and Ors.* 1987 (55) FLR 120, wherein it was laid down as under:

Suspension is a continuing cause of action and it is open to an employee to challenge the order of suspension at any time, on the ground of inordinate and unreasonable delay in initiating the disciplinary proceedings.

3. This Writ Petition is accordingly allowed with costs. The impugned order of suspension dated 30.5.1992 is quashed. Respondents are directed to reinstate the Petitioner forthwith and to pay him the full salary from the date of suspension of the date of reinstatement after adjusting the subsistence allowance already paid to him within, a period of two months from the date of production of certified copy of this order before the Respondents. It will, however, be open to the Respondents to continue with and conclude the disciplinary inquiry against the Petitioner as expeditiously as possible but not later than six months from the date of production of certified copy of this order before them.