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(1998) 07 SC CK 0001

In the Supreme Court Of India

Case No : C.A. No. 3576 of 1998

U.P. (Madhya) Ganna Beej Evam Vikas Nigam Ltd. and Others — APPELLANT

Vs

Prem Chandra Gupta and Others — RESPONDENT

Date of Decision : 11-07-1998

Acts Referred:

Citation : (2000) 1 LLJ 1052 : (1999) SCC(L&S) 623

Hon'ble Judges : D. P. Wadhwa, J;A. S. Anand, J

Bench : Division Bench

Final Decision : Disposed Off

Judgement

1. Leave granted.

2. This appeal is directed against the judgment and order passed by the High Court of Allahabad, Lucknow Bench in Writ Petition No. 2259 (SB) ,of 1993 dated September 10, 1997.

3. From a perusal of the record, it appears that certain complaints were received against Respondent 1 somewhere in 1988- 89 which led to Respondent 1 being placed under suspension w.e.f. December 1, 1989. Respondent 1 challenged the order of suspension by filing Writ Petition No. 1836 of 1990. During the pendency of that writ petition, a charge-sheet was issued to Respondent 1 and an enquiry officer was appointed on April 18, 1990 to conduct the enquiry against him. There is some dispute about the reason for the non-appearance of Respondent 1 before the enquiry officer but the fact remains that on February 19, 1992, the enquiry officer gave an ex-parte report against the respondent. Even thereafter, no notice was issued to the respondent to show cause against his dismissal and on October 15, 1992, Respondent 1 was dismissed from service. The order of dismissal was published in the newspaper on December 28, 1992. Respondent 1 successfully challenged the order of dismissal and his writ petition was allowed on September 10, 1997. The Division Bench of the High Court while allowing the writ petition found that the report of the enquiry officer had not been supplied to

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Respondent 1 even though the proceedings had taken place after November: 20, 1990. Relying upon the judgment in Union of India and others Vs. Mohd. Ramzan Khan, as clarified by the Constitution Bench in Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc., the High Court held that the order of dismissal of Respondent 1 was vitiated for non-supply of the report of the enquiry officer and for denial of opportunity to Respondent 1 to represent against the report of the enquiry officer.

4. That the report of the enquiry officer was not supplied to Respondent 1 before he was dismissed from service has not been disputed by Mr. Rakesh Dwivedi, learned counsel appearing for the appellants. The submission of Mr. Dwivedi, however, is that keeping in view the law laid down by this Court in ECIL case (supra) the High Court should have, while granting relief of reinstatement to the respondent by setting aside his order of dismissal on the technical ground of non-supply of the report of the enquiry officer, left it open to the appellant to proceed with the enquiry from the stage of supply of the report of enquiry. We find force in that submission. The High Court while allowing the writ petition observed:

"Accordingly we allow the writ petition and issue a writ of certiorari quashing the impugned order of dismissal dated October 15, 1992, contained in Annexure 10, and the petitioner shall be deemed to be continued in service with all consequential benefits."

5. While we are not persuaded to interfere with the direction of the High Court setting aside the order of dismissal and the consequential reinstatement of Respondent 1 keeping in view the law laid down by the Constitution Bench in ECIL case (supra) we consider it appropriate to direct that after the reinstatement of Respondent 1, the appellants shall have the liberty to proceed with the enquiry if they so consider it proper and in that event, they may even place Respondent 1 under suspension if found necessary by them and continue the enquiry from the stage of furnishing Respondent 1 with a copy of the enquiry report. We make an order accordingly. Insofar as the grant of consequential benefit of back wages is concerned, that will be decided, in case an enquiry is held, at the conclusion of that enquiry. The enquiry, if any, shall be concluded within one year from the date of the direction by the appellants to hold such an enquiry after the reinstatement of Respondent 1. In that event, Respondent I shall co-operate with the enquiry officer and not cause any hindrance in its completion.

6. With the aforesaid modification of the impugned order, the appeal is disposed of. No costs.

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