

(2016) 08 AHC CK 0114

In the Allahabad High Court

Case No : Civil Misc. Writ Petition (Service Single) No. 3396 of 2016

Vinod Kumar Sharma

APPELLANT

Vs

U.P. State Food & Essential Commodities Corporation Ltd.

RESPONDENT

Date of Decision : 19-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 10 ADJ 219

Hon'ble Judges : Rajan Roy, J.

Bench : Single Bench

Advocate : Piyush Chandra Agarwal and Rajesh Tiwari, Advocates, for the Petitioner; Shreeprakash Singh, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Rajan Roy, J.—(C.M.A. No. 70200 of 2016.)

This is an application for extension of time for completing the disciplinary proceedings.

2. Heard.

3. This court disposed of the instant writ petition vide judgment dated 23.2.2016, which reads as under:

"Heard.

The petitioner herein challenges the order of his suspension from service dated 06.02.2015 (Annexure-1 to the writ petition).

According to the petitioner, no charge-sheet has been issued as yet. It is further stated that prolonged suspension is unjustified.

On the other hand, Sri Prakash Sigh, learned counsel appearing for the opposite parties submits that the charge-sheet shall be issued within one week and the proceedings shall be completed within next three months.

In these circumstances, the court declines to interfere with the suspension order at this stage subject to the condition that the charge-sheet shall be issued to the petitioner within ten days and the disciplinary proceedings shall be completed within next three months. The petitioner shall cooperate with the same.

It is further provided that if the charge-sheet is not issued within ten days, then the suspension order shall stand revoked and the petitioner shall be reinstated in service and paid salary. However, it shall be open for the opposite parties to take such work as they deem appropriate or not to take work.

With the above observations/directions this writ petition is disposed of."

4. After passing of the said judgment the Corporation furnished a charge-sheet to the petitioner on 29.2.2016, to which he submitted his reply on 14.3.2016. In the interregnum i.e. on 9.3.2016, the then inquiry officer Sri Dinesh Singh requested for appointing some other inquiry officer, as he was overburdened. The corporation appointed Sri G.S. Gupta as the inquiry officer. While submitting the reply the petitioner had mentioned that the documents provided to him with the charge-sheet were not legible, therefore, legible documents be provided. The inquiry officer kept sitting over the matter and it is only on 20.5.2016 that he demanded the legible documents from the concerned office. Till 25.5.2016 the said inquiry officer did not proceed. On 30.5.2016 the inquiry officer informed the higher officers that considering the difficulty being faced on account of the documents being illegible it would take one more month to complete the inquiry. On 20.6.2016 the petitioner submitted a letter in response to Corporation's letter dated 17.6.2016 that he was not cooperating and had not filed the written statement, stating therein that in fact the written statement had already been filed. On 25.6.2016 the petitioner submitted a response to the letter of the inquiry officer dated 22.6.2016, inter alia, mentioning therein the names of the persons whom he would like to examine or cross-examine in addition to those who may be examined by the Corporation. A question-mark was put by the delinquent on the continuance of Sri G.S. Gupta as the inquiry officer, as, according to him he was the District In-charge, Sitapur when the alleged embezzlement took place.

5. On 2.7.2016 the inquiry officer Sri G.S. Gupta requested for appointing some other inquiry officer. Considering the aforesaid facts, on 6.7.2016 Sri Ravindra Singh Rathaur was appointed as the new inquiry officer. In the meantime the period of three months stipulated in the order of this court dated 23.2.2016 expired on 23.5.2016 or at best as stated by the counsel of the original petitioner on 4.6.2016. On 13.7.2016 this application for extension of time was filed, but surprisingly enough even thereafter the inquiry continued at the behest of the employer and Sri G.S. Gupta was called for cross-examination by the petitioner on 23.7.2016. Furthermore, on 9.8.2016 even the inquiry report is said to have been submitted.

6. As is borne out from the record the petitioner did not cross-examine Sri Gupta

on 23.7.2016 nor did he examine/cross-examine the persons who had been called on his request on 21.7.2016.

7. The petitioner who is a Class IV employee has remained under suspension since 6.2.2015. Charge-sheet itself was issued after more than a year, that too, on the intervention of this court vide its order dated 23.2.2016. Thereafter the applicants failed to complete the disciplinary proceedings within a period of three months granted to them. Throughout the petitioner continued to be under suspension. From the records it is evident that for the first time on 20.6.2016 the petitioner raised a question-mark as to the appointment of Sri G.S. Gupta as the inquiry officer. Vide his letter dated 25.6.2016 he also gave the names of the persons whom he would like to examine/cross-examine, therefore, he participated at least to this extent in the proceedings even after expiry of the period of three months.

The allegation against the petitioner is of embezzlement. According to Sri Singh, misappropriation of commodities from the Go-down, where the petitioner was working as Chowkidar, was to the tune of about 1 Crore for which he alone has been charge-sheeted.

8. In view of the Full Bench decision in the case of Abhishek Prabhakar Awasthi v. New India Insurance Co., considering the seriousness of the allegations against the petitioner, even though there has been procrastination on the part of the opposite parties, specially the fact that the charge-sheet itself was issued after more than one year and the proceedings have not been completed within the three months provided, though they are hereby allowed to go ahead with the disciplinary proceedings and complete the same within the next three months from today with the cooperation of the petitioner, the court finds that this permission can only be granted with the condition that the petitioner is reinstated in service with immediate effect. He shall be paid his full salary, however, it shall be open for the Corporation to take or not to take work from him. As far as arrears are concerned, same shall be considered only after conclusion of the disciplinary proceedings. The petitioner shall cooperate in the proceedings.

9. It is clarified that the inquiry shall proceed from the stage after the submission of reply to the charge-sheet, i.e. the evidence shall be led afresh as the same have not been led in the presence of the original petitioner.

10. The application is disposed of in the above terms.