

(1992) 01 AHC CK 0081

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 1550 of 1992

Vishwanath Rai

APPELLANT

Vs

U.P. State Spinning Co. Ltd. and Others

RESPONDENT

Date of Decision : 09-01-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 2 AWC 1117

Hon'ble Judges : N.L. Ganguly, J

Bench : Single Bench

Advocate : Ashok Khare, for the Appellant;

Final Decision : Disposed Of

Judgement

N.L. Ganguly, J.—The Petitioner has been working as Senior Security Officer at the U.P. State Spinning Mill, Akbarpur unit, Faizabad. He has been suspended by order dated 14-11-91 by the Managing Director of the company. Departmental proceedings have been initiated. The suspension order contains a peculiar clause by which the Petitioner has been directed that during the period of the suspension order the Petitioner shall have to report daily at 11 a.m. to the Managing Director (Administration) for recording his attendance at Kanpur, further, he will also not leave the station without prior permission in writing of the Managing Director.

2. The Petitioner admittedly has been provided accommodation at Akbarpur and he was working there. In order to comply with the suspension order in toto, the Petitioner shall have to report at Kanpur office daily, and shall have to stay at Kanpur during suspension. The Petitioner submits that there are no such provision in the bye-laws, namely, the U.P. State Textile Corporation (Disciplinary proceedings) Bye-laws, 1978.

3. After hearing the learned Counsel for the Petitioner and Sri Krishna Murari on behalf of Respondent No. 1, 2 and 3, I consider that it would be proper to

dispose of the petition without calling for the counter affidavit, under the rules of the Court.

4. The Petitioner has been suspended and served with the charge sheet and he is required to face the departmental proceedings. No. useful purpose would be served if the Petitioner is asked to present himself before the Managing Director (Administration) daily at 11 a.m. Further no useful purpose would be served also by asking the Petitioner not to leave the station (Kanpur) without prior permission of the aforesaid" authority and to remain at Kanpur alone during the pendency of the departmental proceedings. There are various other ways and means to procure the attendance of the Petitioner. In case the Petitioner absents himself, the Respondents are not powerless to proceed against him in accordance with law after due notice As such, the condition imposed under the suspension order is illegal and is hereby quashed.

5. Learned Counsel for the Petitioner further submitted that during the departmental proceedings, he made application before the authorities for supply of copies of necessary relevant documents and the Respondents have refused to supply the same. He has further submitted that the Petitioner is willing to obtain copies of the same at his own expenses and as such a direction be issued by this Court to that effect. I consider it not proper to issue any direction in this matter as it is for the Respondents to conduct the departmental proceedings according to law. If the Respondents chose to proceed in any manner not provided in law, they shall face the consequence at proper stage. This Court is not inclined to pass any order in that respect In fact, this Court would not have interfered in the matter in view of the Full Bench decision of this Court Chandrama Singh v. Managing Director U.P. Cooperative Union Lucknow (1991) 2 UP LB EC 898 on the ground of alternative remedy, but the facts and circumstances" indicated that such conditions as imposed in the impugned suspension order if are allowed to stand, the Petitioner would be put to irreparable loss and hardship and for this reason the petition cannot be thrown out on the ground of alternative remedy. The Petitioner have been able to make out a case that there is no efficacious alternate remedy for interference under Article 226 of the Constitution.

6. In view of the above, the conditions imposed in the impugned suspension order requiring the Petitioner to appear daily at Kanpur at 10 a.m. and not to leave Kanpur without prior permission of the Respondents during the pendency of the departmental proceedings against him are hereby quashed. The Respondents are free to conduct the departmental action according to law.

7. With the above limited relief and observation, the petition is disposed of, certified copy be issued in a week on payment of usual charges.