

Item No. 21

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 320 of 2021

R.K Herojit Singh

....Petitioner(s)

-Versus-

The Principal Secretary/Commissioner (Home) & 4 Ors

....Respondent(s)

**BEFORE
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

23.02.2023

Heard Mr. S. Rajeetchandra, learned counsel appearing for the petitioner and Mr. S. Niranjana, learned GA appearing for the respondents.

[2] The simple case of the petitioner is that a Departmental Enquiry was initiated against the petitioner and after the conclusion of the said Departmental Enquiry, the Enquiry Officer submitted a report to the Disciplinary Authority stating that charges against the petitioner are not held prove. On receiving the said enquiry report, the Disciplinary Authority issued the impugned order dated 01-03-2019 to the effect that he was not satisfied with the finding of the Enquiry Officer and accordingly he appointed a new Enquiry Officer for conducting a fresh enquiry to the charges made against the petitioner.

[3] Relying on the judgment rendered by the Hon'ble Apex Court in the case of **Vijay Shankar Pandey Vs Union of India & Anr** reported in (2014) 10 SCC 589, it has been submitted by the learned counsel for the petitioner that the Disciplinary Authority has no power for ordering a re-enquiry against the petitioner only on the ground that

he was not satisfied with the findings submitted by the earlier Enquiry Officer and accordingly, the learned counsel submitted that the impugned order is not sustainable in the eye of law and the same is liable to be quashed and set aside. The relevant portion of the judgment rendered in the case of “**Vijay Shankar Pandey**” (supra) is reproduced herein below:-

“25. The Court in K.R. Deb held that:

“12 It seems to us that Rule 15, on the face of it, really provides for one inquiry but it may be possible if in a particular case there has been no proper enquiry because some serious defect has crept into the inquiry or some important witnesses were not available at the time of the inquiry or for some other reason, the Disciplinary Authority may ask the Inquiry Officer to record further evidence. But there is no provision in Rule 15 for completely setting aside previous inquiries on the ground that the report of the Inquiring Officer or Officers does not appeal to the Disciplinary Authority. The Disciplinary Authority has enough powers to reconsider the evidence itself and come to its own conclusion under Rule 9.

13. In our view the rules do not contemplate an action such as was taken by the Collector on February 13, 1962. It seems to us that the Collector, instead of taking responsibility himself, was determined to get some officer to report against the appellant. The procedure adopted was not only not warranted by the rules but was harassing to the appellant.” (Emphasis supplied) and allowed the appeal of K.R. Deb.

“ 26. It can be seen from the above that the normal rule is that there can be only one Enquiry. This Court has also recognized the possibility of a further Enquiry in certain

circumstances enumerated therein. The decision however makes it clear that the fact that the Report submitted by the Enquiring Authority is not acceptable to the disciplinary authority, is not a ground for completely setting aside the enquiry report and ordering a second Enquiry.”

[4] Despite giving ample opportunities to the respondents to file their counter affidavit, the respondents have failed to file their counter affidavit till today.

After hearing the submission of the learned counsel for the petitioner and after perusal of the case laws cited by him, the learned GA fairly submitted that the judgment rendered by the Hon’ble Apex Court in the case of **K.R Dev Vs Collector of Central Excise, Shillong** reported in **(1971) 2 SCC 102** and in the case of **Vijay Shankar Pandey Vs Union of India & Anr** reported in **(2014) 10 SCC 589**, are applicable in the present case and that any appropriate order may be passed by this Court as deemed just and proper.

[5] I have heard the submission of the learned counsel appearing for the parties at length and also examine carefully the materials available on record.

[6] In the present case, the Departmental Enquiry was conducted against the petitioner and after completion of the said Departmental Enquiry, the Enquiry Officer submitted a report to the effect that the charges made against the petitioner are not held prove. On receiving the said enquiry report, the Disciplinary Authority issued the impugned order dated 01-03-2019 stating that he is not satisfied with the finding of the Enquiry Officer and accordingly, the Disciplinary Authority appointed another Enquiry Officer for holding a fresh enquiry against the petitioner.

[7] In the case of Vijay Shankar Pandey (supra) it has been categorically held by the Hon’ble Apex Court that the Disciplinary

Authority being not satisfied with the enquiry report is not a ground for completely setting aside the enquiry report and ordering a second enquiry. In my considered view, the said principle of law laid down by the Hon'ble Apex Court squarely covers the issue raised in the present case and this Court is satisfied that the impugned order dated 01-03-2019 is not sustainable in the eye of law and the same is liable to be quashed and set aside.

Accordingly, the present writ petition is allowed by quashing and setting aside the impugned order dated 01-03-2019.

Parties are to bear their own cost.

JUDGE

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