

Court No. - 10

Case :- WRIT - A No. - 37598 of 2014

Petitioner :- Shiv Murat Ram

Respondent :- High Court Of Judicature At Allahabad And 2 Others

Counsel for Petitioner :- Jameel Ahmad Azmi

Counsel for Respondent :- C.S.C., Manish Goyal

Hon'ble Kshitij Shailendra, J.

1. Heard Sri Jameel Ahmad Azmi, learned counsel for the petitioner, learned Standing Counsel for the respondent no.3 and Ms. Bushra Maryam for the respondents no.1 and 2.

2. The petitioner was working as Court Clerk in District Judgeship, Azamgarh and after attaining age of superannuation, he retired from his services on 31.07.2011.

3. The writ petition has been filed challenging the impugned order dated 23.04.2014 whereby a punishment has been awarded to the petitioner in terms of reduction in pension to certain extent.

4. The submission of learned counsel for the petitioner is that though the petitioner retired on 31.07.2011, a complaint was made against him on 21.01.2012 and the said complaint was moved in relation to something that had happened about four years ago, as per the Service Law, no action could have been taken against the petitioner. Further submission is that inquiry proceedings initiated against the petitioner after his retirement, without approval from Governor of the State of U.P., were illegal and, hence, the consequential punishment order is unsustainable. In support of his submissions, Sri Azmi has placed reliance upon following authorities:-

"(i) Dev Prakash Tewari Vs. Uttar Pradesh Cooperative Institutional Service Board, Lucknow and others: (2014) 7 SCC 260; and

(ii) State Bank of India Vs. A.N. Gupta and others: (1997) 8 SCC 60"

5. Ms. Bushra Maryam, on the other hand, submits that the petitioner's matter was placed before the Litigation Committee of this Court and the Committee, in its meeting dated 12.07.2016, has resolved that since order has been passed without having prior

sanction from the Governor, it is in violation of Regulation 351-A of the Civil Regulations and, therefore, a recommendation has been made that the learned Special Counsel for the High Court should be asked to request the Writ Court to set aside the orders of the District Judge and direct him to obtain prior sanction from the Governor of State of U.P. in the matter of proposed punishment, if any.

6. The Resolution of the Committee is taken on record.

7. Although, Ms. Bushra Maryam has argued on the lines suggested by the Litigation Committee, the Court finds that the said Resolution was passed seven years ago in 2016 and once the Court is satisfied that, as per law, even the inquiry could not have been conducted against the petitioner, instead of directing reopening of the inquiry proceedings, the Court is satisfied that the order impugned is unsustainable and is liable to be quashed.

8. The writ petition succeeds and is **allowed**.

9. The order impugned dated 23.04.2014 passed by the District Judge, Azamgarh (respondent no.2) is **quashed**.

10. Since the punishment order in terms of the deduction from pension has already been given effect to, the District Judge, Azamgarh (respondent no.2) is directed to refund the amount so deducted **on or before 31.01.2024**, provided a certified copy of this order is produced before the District Judge, Azamgarh, **in the month of November, 2023 itself**.

Order Date :- 7.11.2023

AKShukla/-