

Court No. - 34

Case :- WRIT - A No. - 14716 of 2023

Petitioner :- Ravi Yadav

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Atipriya Gautam, Jay Vishwanath Pandey, Sr. Advocate, Vinod Kumar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar, J.

1. Heard Sri V.K.Mishra, learned counsel for the petitioner and learned Standing Counsel.

2. By means of this petition filed under Article 226 of the Constitution, petitioner has assailed the order dated 23.09.2021 and 17.12.2021, whereby, the petitioner who has been working as confirmed Inspector in U.P. Police, has come to be dismissed from service on the ground of serious misconduct but that too without holding any disciplinary inquiry as contemplated under relevant service rules namely U.P. Police Officers of Subordinate Rank (Discipline and Appeal) Rules, 1991 taking recourse to clause - B of sub Rule (2) of Rule 8 which empowers the authority not to hold inquiry in certain cases of dismissal from service where it has come to conclude that it was not reasonably practicable to hold such an inquiry.

3. Learned counsel for the petitioner submits that the petitioner having been *prima facie* held to be guilty of serious misconduct and no such circumstance having been explained as to why the proper disciplinary inquiry cannot be held in the matter, the order impugned cannot be sustained in law. He has relied upon a judgment of Supreme Court in the case of **Reena Rani v. State of Haryana & Others, (2012) 10 SCC 215**, wherein, the Court appreciated the arguments of Additional Advocate General in the said case that no specific reasons have been assigned as to why it was not reasonably practicable for respondents to hold an inquiry. Paragraph no. 7 of the judgment runs as under:

"7. In the order of dismissal, the Superintendent of Police has not disclosed any reason as to why it was not reasonably practicable to hold regular departmental enquiry. The learned Additional Advocate General fairly stated that the order of dismissal does not contain the reasons as to why it was not reasonably practicable to hold regular departmental enquiry against the appellant. He also admitted that no other record has been made available to him which would have revealed that the Superintendent of Police had recorded reasons for forming an opinion that it was not reasonably practicable to hold regular departmental enquiry for proving the particular charge(s) against the appellant."

4. Countering the submissions, learned Additional Chief Standing Counsel has taken the Court to the finding part of the order, in which it has come to be mentioned that petitioner used to issue threatenings, use to mislead the people posted therein in police station and also at a time be using abusive language,

however, all these complaints, according to admitted position has been anonymous. This complaint which do not relate to any particular incident or event has been made the basis in imposing major penalty of dismissal from service and the excuse taken is that charges have stood proved, and therefore, it was not necessary to hold enquiry. Thus, argument advanced by learned Additional Chief Standing Counsel is highly misplaced for two reasons: firstly, the fact finding report is not hitting any point as if there has come to be established any specific charge, what kind of threatenings were issued is not clear and what kind of misleading statements were made to the police officer is also not disclosed, what kind of abusive language had been used and against whom it had been used has also not been disclosed. These *ex parte* anonymous allegations have remained uncontroverted for the reason that no enquiry was conducted, and therefore, it cannot be said that such charges have stood proved; and secondly law is, not on the point as to whether charges have *prima facie* proved, so as to dispense with the regular enquiry, instead the law is, as per rules, that it was not reasonably practicable for respondents to hold enquiry.

5. In the finding part, the disciplinary authority records that since charges have been proved, therefore, it was not necessary to hold enquiry, this interpretation is highly misplaced. Charges in my considered view were not proved at all on this ground also, therefore, the order cannot be sustained in law. Besides the above, the order is absolutely silent as to why and in what circumstances, it was not reasonable and practical for respondents to hold enquiry.

6. At this stage, learned Standing Counsel submits that this order may be set aside and the matter may be left open for the respondent disciplinary authorities to proceed in accordance with relevant rule 14 of 1991 Rules, which provides for dismissal and removal of an employee from service by following the prescribed procedure.

7. In view of the above, the order impugned herein dated 23.09.2021 and 17.12.2021 are hereby quashed.

8. Writ petition thus stands allowed.

9. Authorities are directed to proceed in accordance with Rule 14 of Rules, 1991, if so advised and if so desire.

Order Date :- 28.11.2023

Sanjeev