

Court No. - 34

Case :- WRIT - A No. - 16183 of 2023

Petitioner :- Rajesh Kumar

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

Counsel for Petitioner :- Himanshu Agrawal, Sr. Advocate

Counsel for Respondent :- C.S.C., Narendra Bahadur Singh

Hon'ble Ajit Kumar, J.

A preliminary objection has been raised by learned counsel for the respondent Corporation on the ground that petitioner has an alternative statutory remedy of departmental appeal under Section 69(1) of U.P. State Road Transport Corporation Employees (Other than Officers) Service Regulations, 1981.

Meeting the argument, learned Senior Advocate Sri Sameer Sharma assisted by Sri Himanshu Agrawal, learned counsel for the petitioner submits that the order itself is without jurisdiction on the ground that two penalties have come to be imposed upon the petitioner: one in the nature of major penalty and the other as a minor penalty, inasmuch as, before the inquiry officer the complainant himself had made a statement that he had never made the alleged complaint, which was the basis of charge sheet issued to the petitioner. He submits that entire proceedings have been drawn against the petitioner without there being any iota of evidence *qua* the charge in question. However, he does not deny that there is a provision for departmental appeal before the appellate authority but submits at the same time that the recovery is being pursued against the petitioner from the salary pursuant to the order impugned, and so the very purpose of appeal may get frustrated.

Having heard learned counsel for the parties and having perused the records, I find while the argument advanced by learned Senior Advocate requires close scrutiny and examination of the proceedings, I consider it more appropriate that the matter is first examined at the stage of appeal.

Accordingly, this petition stands **disposed of** at this stage with direction that in the event petitioner prefers an appeal within a period of three weeks' from today, the same shall be considered and disposed of strictly in accordance with law by following the procedure prescribed for and by means of a reasoned and speaking order within the next two month's time and in the event such an

application is filed as directed herein above, until the disposal of such appeal by the authority concerned or for a period of three months, whichever is earlier, no recovery shall be pursued against the petitioner pursuant to the order impugned. It is made clear that in the event petitioner fails to prefer any appeal within the period of three weeks, as prescribed for herein above, it will remain open for the respondents to proceed in accordance with law.

Order Date :- 13.10.2023

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