

Court No. - 36

Case :- WRIT - A No. - 16657 of 2023

Petitioner :- Pankaj Kumar

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

Counsel for Petitioner :- Kumar Sreshtha, Abhishek Bhushan

Counsel for Respondent :- CSC, Akhilesh Kumar Sharma

Hon'ble Manjive Shukla, J.

1. Heard Sri Kumar Sreshtha, learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondents No. 1 and 2 as well as Sri Akhilesh Kumar Sharma, learned counsel appearing for the Respondents No. 3 & 4.

2. Petitioner through this writ petition has challenged the order dated 11.11.2021 passed by the District Basic Education Officer, Varanasi whereby major penalty in the form of withholding of one increment permanently has been imposed against him.

3. Petitioner has argued that prior to passing of the impugned punishment order dated 11.11.2021 neither petitioner was issued any charge-sheet nor any inquiry by fixing date, time and place has been conducted by the Inquiry Officer. He has further argued that even no evidence whatsoever has been recorded during the inquiry and petitioner has also not been given any opportunity to cross-examine the witnesses.

4. Learned counsel appearing for the petitioner has argued that once the procedure prescribed for holding disciplinary proceedings has not been followed, then the inquiry and consequential punishment order cannot sustain in the eyes of law.

5. On the other hand, Sri Akhilesh Kumar Sharma though initially tried to oppose the writ petition but ultimately has conceded that procedure prescribed under the rules for providing charge-sheet and conducting inquiry by fixing date, time and place has not been followed while passing the impugned punishment order dated 11.11.2021.

6. Sri Akhilesh Kumar Sharma has further prayed that the order dated 11.11.2021 may be quashed and matter may be remanded to Disciplinary Authority to proceed afresh in accordance with rules.

7. I have considered the rival submissions advanced by the learned counsels appearing for the parties and I find that prior to passing of the punishment order dated 11.11.2021 neither the charge-sheet has been issued to the petitioner nor any inquiry as contemplated under Rule-7 of the U.P. Basic Education Staff Rules, 1973 read with U.P. Government Servant (Discipline & Appeal) Rules, 1999 has been conducted. Even otherwise, learned counsel appearing for the Respondents No. 3 and 4 has consented that punishment order dated 11.11.2021 may be quashed and the matter may be remanded to the Disciplinary Authority for proceeding afresh in accordance with rules.

8. In view of the aforesaid reasons and keeping in view the submissions made by the learned counsel appearing for the Respondents No. 3 & 4, this writ petition is **allowed**. Punishment order dated 11.11.2022 passed by the Respondent No. 4 is quashed.

9. Matter is remanded to Disciplinary Authority i.e. District Basic Education Officer, Varanasi to proceed afresh in accordance with rules.

Order Date :- 18.10.2023

A. Mandhani