

Chief Justice's Court

Case :- SPECIAL APPEAL No. - 215 of 2016

Appellant :- Dujai Ram

Respondent :- State Of U.P.Thru Prin.Secy.Deptt.Of Revenue Lko.And Ors.

Counsel for Appellant :- Sudhir Kumar Misra,Mr.Shekhar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Pritinker Diwaker,Chief Justice

Hon'ble Rajan Roy,J.

Heard Sri Sudhir Kumar Misra, learned counsel for the appellant and Sri Gopal Kumar Srivastava, learned Standing Counsel for the opposite party nos.1 to 3.

The instant Special Appeal has been filed against the impugned order dated 29.04.2016 passed by this Court in Writ Petition No.320 (S/S) of 2005 (Dujai Ram Vs. State of U.P. & Others).

The appellant herein filed a Writ Petition No.320 (S/S) of 2005 (Dujai Ram Vs. State of U.P. & Others) challenging the order of punishment dated 01.10.2004 by which the petitioner was visited with the punishment of reversion to the initial pay of Rs.4,000/- to Rs.6,000/-, apart from Censure entry. The facts of the case are that disciplinary proceedings were initiated against the appellant for manipulation and interpolation of revenue records pertaining to case no.222/512, under Section 34 L.R. Act (Smt. Rachna Singh and others Vs. Smt. Shanti Devi of Village Nanpara, Pargana Badhi, Tehsil Sidhauli). Charge sheet was issued to the petitioner to which he submitted his reply and an inquiry was conducted, wherein it was found that interpolation had been made in the revenue records of mutation proceedings with an oblique motive to give advantage to one of the parties to suit. These allegations were found proved on the basis of documentary evidence. Inquiry Report was submitted recording findings against the appellant herein which was served upon the appellant vide order dated 06.02.2004 and was received by him on 10.02.2004 as per report dated 25.06.2004 of the Tehsildar, Sidhauli, but, no reply was submitted by the appellant to the disciplinary authority against the said inquiry report.

The Writ Court after considering the submissions of learned counsel for the petitioner and perusing the record has recorded a

categorical finding that on careful scrutiny of record which were placed before it, it was found that the Khatauni pertaining to Khata No.248 of Shanti Devi contains some interpolations/over writing. The Writ Court has found that the Inquiry Officer had come to the conclusion that these over writing/interpolations were made by the petitioner. At serial no.10 dated 28.10.1998 after making mutation, serial no.11 had been added and the mutation of 28.09.1998 had been entered as serial no.12, the order dated 08.03.1999 was mentioned. Thus, according to the Writ Court, the mutation of serial no.11 had been made by over writing with an oblique motive on extraneous consideration.

The plea of the appellant that the punishment order had been passed without giving notice to him was found to be incorrect as the notice had not only been sent but received by the appellant, to which, he did not submit any reply.

The submission of the appellant that no date, time and place was fixed is also of no avail in the peculiar facts of this case as the findings are based on documentary evidence and the veracity of the documents has not been denied. Moreover, we find that against the punishment order, no appeal was preferred instead, straight away a writ petition was preferred which has been dismissed.

Having said so we find that two punishments have been imposed upon the appellant, one of Censure and other is reversion to the initial pay of Rs.4,000-6,000/-, which could not have been done. In the ends of justice we provide that the said censure entry shall be read as an adverse entry for the relevant year and shall not be treated as a punishment of Censure. The other punishment shall remain as it is. Subject to this modification in the Writ Court's judgment, the appeal alongwith the writ petition is **disposed of** as otherwise we do not find any error in the impugned action.

Order Date :- 17.5.2023
Saurabh

(Rajan Roy,J.) (Pritinker Diwaker,C.J.)