

Court No. - 3

Case :- WRIT - C No. - 679 of 2006

Petitioner :- Surya Pal Singh

Respondent :- State Of U.P.Through Prn.Secy.Agriculture And 4 Others

Counsel for Petitioner :- Kapil Dev,Ashwani Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Vivek Chaudhary,J.

Hon'ble Manish Kumar,J.

1. Heard learned counsel for petitioner and learned Standing Counsel for State.
2. Petitioner has approached this Court challenging the order dated 06.07.2004 whereby Superintendent of Police, Vigilance Establishment, Lucknow has initiated an inquiry against the petitioner and asked for documents with regard to his properties at the time he joined services.
3. Facts of the case are that petitioner was selected and appointed as a Class-II employee in the agricultural department in the year 1963. He retired from the said service on 31.07.1997 after attaining the age of superannuation and all his retiral benefits were paid to him treating as nothing pending against him. Thereafter, by impugned order dated 06.07.2004, Superintendent of Police, Vigilance asked petitioner to provide all his earning details at the time of joining of his services and thereafter. Petitioner has approached this Court challenging the same on the ground that after a period of seven years of his retirement a rowing inquiry is initiated, that too by vigilance department and not by the agricultural department where he was working. Petitioner has further submitted in paragraph-12

of the writ petition that *"although the Superintendent of Police, Vigilance Establishment found that the complaint is a fake complaint by a fake person, but still he wanted to conduct enquiry regarding the assets of the petitioner, and, therefore, the petitioner was directed to submit a statement regarding his income during the period of his service. Consequently petitioner submitted details on 07.12.1993 and a copy of the same is being filed herewith and marked as Annexure No.2 to this writ petition."* Petitioner further submitted that reply to the said paragraph is made in paragraph-11 of the counter affidavit of Sri Ashok Kumar Srivastava filed on behalf of respondent no.1 to 3 which merely states *"that the contents of para 12 of the writ petition need no reply."* Thus, it is admitted that complaint was made by a fake person.

4. Learned Standing Counsel relies upon annexure No.3 to the counter affidavit filed on behalf of Sri Chandra Shekhar Srivastava, posted as Inspector, U.P., Vigilance, Lucknow. While replying to paragraph-12 of the writ petition in paragraph-13 of his counter affidavit he only stated that *"the enquiry was continuing in respect of only one charge i.e. disproportion of assets and properties which was transferred to the Vigilance Department and the files were handed over to the Vigilance Department and thereafter the impugned order is issued asking documents which were not on record. It is incorrectly stated that enquiry has been completed in the year 1996 and it was completed in the year 1999 and was pending for one charge i.e. disproportion of assets and properties."*

5. Even in the said paragraph, there is no denial that the complaint was made by a fake person.

6. Further, reliance is placed by the State upon Annexure CA-1 of the said counter affidavit of Vigilance Department which is a letter dated 18.02.1993 written by the Special Secretary, State of U.P. to the Superintendent of Police, Vigilance. In the said letter it is stated that the Special Secretary is directed to communicate that all the allegations against petitioner be investigated and a report be submitted within one week. It is stated that the inquiry is being conducted on the basis of aforesaid communication dated 18.02.1993.

7. There is nothing filed along with the said communication dated 18.02.1993 to show as to what were the allegations against the petitioner. A perusal of the said communication only shows that a rowing inquiry is directed against the petitioner without any specific details given with regard to the same. Even otherwise no reliance can be placed on a communication on 18.02.1993 for initiating inquiry in the year 2004, while petitioner had retired on 31.07.1997 without any pending inquiry against him and paid all his retiral dues without any objection by the department. There does not appear any reason to conduct a rowing inquiry with regard to disproportionate assets after retirement of seven years of an employee who was permitted to retire without any objection whatsoever.

8. Thus, the impugned order dated 06.07.2004 cannot stand and is hereby quashed.

9. Accordingly, the writ petition is **allowed**.

Order Date :- 27.10.2023

Arti/-

[Manish Kumar,J.] [Vivek Chaudhary,J.]