

Court No. - 1

Case :- WRIT - A No. - 9914 of 2023

Petitioner :- Virendra Singh

Respondent :- State Public Service Tribunal U.P. Lko. And 4 Others

Counsel for Petitioner :- M.P. Raju

Counsel for Respondent :- Manish Mishra,C.S.C.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Om Prakash Shukla,J.

1. Heard learned counsel for the petitioner, Sri Manish Mishra learned counsel who has put in appearance on behalf of the respondent no. 1 and learned Standing Counsel for the State.

2. This writ petition is directed against the judgement and order dated 8.12.2022 passed by the State Public Service Tribunal in claim petition no. 2292 of 2021 whereby the minor punishment of withholding one month's pay imposed upon the petitioner was upheld by the tribunal. The punishment order dated 27.12.2019, appellate order dated 4.2.2020 as well as the revisional order dated 4.6.2020 were also challenged in the writ petition.

3. The petitioner is a Constable driver in 6th Battalion P.A.C., district Meerut. The petitioner was given a show cause notice as to why disciplinary proceedings may not be initiated against him. The petitioner furnished his reply which was not accepted by the disciplinary authority and order of punishment was passed by the disciplinary authority vide punishment order dated 27.12.2019 as stated above. The punishment order dated 27.12.2019 was also challenged before the appellate authority as well as the revisional authority but the same was also rejected vide appellate order dated 4.2.2020 and the revisional order

dated 4.6.2020.

4. The main argument of learned counsel appearing for the petitioner is that the disciplinary authority has acted upon a preliminary report for awarding the punishment, which is not permissible in law.

5. Learned counsel for the petitioner has also submitted that the reply to the show cause notice was not properly considered by the disciplinary authority. The inquiry report is based on surmises and conjectures and the petitioner has been held guilty without appreciating any evidence on record.

6. Learned counsel for the petitioner has also relied upon the decision of Hon'ble Supreme Court in the case of **Union of India and another versus Hemraj Singh Chauhan and others reported in (2010)28 LCD 877** to impress upon the Court that it is a settled legal position that the right of eligible employees to be considered for promotion is virtually a part of their fundamental right guaranteed under Article 16 of the Constitution of India.

7. We have considered the arguments of learned counsel for the petitioner as well as learned counsel for the respondents.

8. Under the U.P. Police Officers of Subordinate Ranks(Punishment and Appeal) Rules, 1991, two categories of punishment are prescribed; one is major penalty that is dismissal from service, removal from service and reduction in rank including reduction to a lower scale or to a lower

stage in a time scale and the other is minor penalty i.e. withholding of promotion, imposition of fine not exceeding one month' pay, withholding of increment including stoppage at an efficiency bar and censure entry.

9. It is not disputed that a show cause notice was given to the petitioner to which the petitioner submitted his reply and considering the reply, the minor penalty has been awarded. That apart, the petitioner has already availed of the opportunity of filing an appeal as well as the revision. The grievance raised in this writ petition has already been considered at the appellate and the revisional stage. The tribunal also dealt with the matter exhaustively.

10. It is a settled law that in disciplinary proceedings courts are very reluctant to interfere unless the punishment awarded shocks the conscience of the court and the finding arrived at are per se perverse. In the present case, the procedure for awarding minor penalty has duly been complied with and finding arrived at does not appear to be perverse.

11. The judgement and order dated 8.12.2022 passed by the U.P. State Public Services Tribunal in the facts and circumstances of the case does not suffer from any illegality calling for interference under Article 226 of the Constitution of India.

12. The writ petition being bereft of merit is dismissed.

Order Date :- 21.12.2023
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