

Court No. - 7

Case :- WRIT - A No. - 8045 of 2023

Petitioner :- Smt. Nikky Shiva

Respondent :- Chairman U.P. Rajya Vidhyut Utpadan Nigam Ltd. Lucknow And 4 Others

Counsel for Petitioner :- Alok Kumar Tripathi, Arvind Kumar Tripathi

Counsel for Respondent :- Puneet Chandra

Hon'ble Abdul Moin, J.

1. Heard learned counsel for the petitioner and Sri Puneet Chandra, learned counsel for the respondents.
2. With the consent of learned counsel for the parties, the writ petition is being finally decided.
3. At the very outset, Sri Puneet Chandra, learned counsel for the respondents, informs that in pursuance to the order of this Court dated 16.10.2023 he is having the entire records.
4. Instant petition has been filed praying for quashing of the dismissal order dated 02.05.2023, a copy of which is Annexure-1 to the writ petition.
5. The contention of learned counsel for the petitioner is that the petitioner was working as Accounts Officer at Harduaganj Thermal Power, Project Kasimpur Aligarh. On account of the circumstances beyond her control she could not attend the office at Aligarh since the year 2017-2018. Subsequent thereto, on account of pregnancy and COVID-2019 pandemic again the petitioner was unable to attend the office.
6. It is contended that as the petitioner was earlier residing at Saharanpur but subsequently she started residing at Faridabad consequently she sent an application pertaining to change of address to her office at Aligarh i.e. Harduaganj Thermal Power, Project Kasimpur Aligarh on 05.04.2022. As the petitioner failed to submit her joining disciplinary proceedings were initiated against her at Lucknow and after a publication made in the newspaper and the petitioner having failed to attend the disciplinary proceedings, the respondents proceeded ex-parte and vide impugned order dated 02.05.2023, a copy of which is Annexure-1 to the writ petition, the petitioner has been dismissed from her service.

7. The argument of learned counsel for the petitioner is that all correspondence that was made by the respondents while holding the inquiry at Lucknow was made at her old address at Saharanpur which also stands recorded at serial no.11 of the dismissal order dated 02.05.2023. It is contended that once the petitioner had already submitted information regarding change of her address of Faridabad at her Aligarh office on 05.04.2022 consequently it was in the fitness of things that the respondents should have sent all correspondence including the charge sheet to the petitioner at her new address at Faridabad and there was no occasion for the respondents to have proceeded ex-parte more particularly when they were already having the correct address of the petitioner and as such the impugned order of dismissal merits to be quashed on this ground alone.

8. On the other hand, Sri Puneet Chandra, learned counsel appearing for the respondents, fairly states that on a perusal of records of the Aligarh office it has emerged that the petitioner had sent an application indicating change of her address from Saharanpur to Faridabad on 05.04.2022. Incidentally, the Aligarh office vide order dated 07.04.2022, a copy of which is Annexure-11 to the writ petition, corresponded with the petitioner at her Faridabad address yet the petitioner failed to join except for a brief period. As the petitioner did not join consequently the respondents had no option left but to initiate disciplinary proceedings against the petitioner and as the petitioner failed to participate in the disciplinary proceedings, the respondents proceeded ex-parte and passed the dismissal order. However, it is fairly submitted that the disciplinary proceedings have been held at the Lucknow office of the Corporation and that the charge sheet etc. have all been sent to the petitioner at her Saharanpur address.

9. As this Court vide order dated 16.10.2023 had required the respondents to produce the records, Court has itself gone through the records from which it emerges that the entire disciplinary proceedings have been held against the petitioner by indicating her address at Saharanpur.

10. Once admittedly the Aligarh office of the Corporation was having the correct address of the petitioner at Faridabad and the Aligarh office also has also corresponded with the petitioner at her Faridabad address consequently there was no occasion for the respondents to have initiated disciplinary proceedings by indicating her address at Saharanpur, meaning thereby the entire correspondence pertaining to disciplinary proceedings have been sent by the respondents to the old address of the petitioner at Saharanpur.

11. Even if, the Aligarh office did not communicate the correct address of the petitioner at Faridabad to the office at Lucknow for that action the petitioner cannot be put at fault.

12. Keeping in view the aforesaid discussion, the writ petition is **allowed**. The order impugned dated 02.05.2023, a copy of which is Annexure-1 to the petition, is quashed.

13. Consequences to follow.

14. It is open for the respondents to initiate fresh proceedings against the petitioner in accordance with law.

Order Date :- 30.10.2023

A. Katiyar