

Court No. - 7

Case :- WRIT - A No. - 8411 of 2023

Petitioner :- Hariom Kumar

Respondent :- State Of U.P. Thru. Prin. Secy. Awas Awam Shahari
Niyojan Vibhag Lko. And 6 Others

Counsel for Petitioner :- Durgesh Kumar Rajput, Hitendra Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Abdul Moin, J.

1. Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondent no. 1.

2. The instant writ petition has been filed challenging the order dated 12.01.2021 passed by the respondent no. 2 as well as the order dated 24.07.2023 passed by the respondent no. 3, copies of which are annexures 1 and 2 to the writ petition. Vide the order dated 12.01.2021 the petitioner has been imposed with a penalty of withholding of three increments as well as recording of adverse entry in his service book and vide the order dated 24.07.2023 the period of suspension has only been treated for the purpose of subsistence allowance and no salary has been held to be payable to the petitioner.

3. The case set forth by the petitioner is that the petitioner was working as a Sweeper under the respondents. He was placed under suspension vide the order dated 03.10.2019. He was also served with a chargesheet on 14.02.2020. It is contended that the petitioner was subsequently reinstated on 12.01.2021. By means of the order dated 12.01.2021 itself the petitioner has been visited with a major penalty as already indicated above. The petitioner staked his claim for being paid salary for the period of his suspension which has been rejected vide the order dated 24.07.2023.

4. Raising a challenge to both the orders, the instant writ petition has been filed.

5. The contention of learned counsel for the petitioner is that in the inquiry report nothing adverse has been found against the petitioner and thus the respondents have patently erred in passing the orders impugned.

6. Learned counsel for the petitioner also states that against the impugned punishment order dated 12.01.2021 the petitioner has not preferred any appeal and consequently for all practical purpose the punishment order has attained finality.

7. Having heard learned counsel for the parties and having perused the record what emerges is that on account of certain irregularities the petitioner had been placed under suspension vide the order dated 03.10.2019. The petitioner was issued a chargesheet and departmental proceedings were initiated against him. After an inquiry and submission of inquiry report dated 11.09.2020, a copy of which is annexure 10 to the petition, wherein the charges have been found proved against the petitioner, the petitioner has been visited with a major penalty. Admittedly against the order of punishment no appeal has been filed by the petitioner meaning thereby the order has been acquiesced to by the petitioner. Subsequent thereto the petitioner staked his claim for being paid entire salary for the period of his suspension. The respondents vide the order dated 24.07.2023 have rejected the claim of the petitioner for grant of any benefit except subsistence allowance for the period of suspension.

8. Once the petitioner has already been visited with a major penalty vide the order dated 12.01.2021 and right since 03.10.2019 till 21.01.2021 the petitioner has continued under suspension and the petitioner having been found guilty of charges in the disciplinary proceedings and visited with a major penalty and the impugned punishment order has also attained

finality as the petitioner has failed to file any appeal to the same and the petitioner has now approached this Court after more than two and half years, consequently considering that the charges have been found proved against the petitioner, as such no illegality and infirmity is found in the orders impugned dated 12.09.2021 and 24.07.2023, copies of which are annexures 1 and 2 to the writ petition.

9. Considering the aforesaid discussion, the writ petition is **dismissed.**

Order Date :- 30.10.2023

J.K. Dinkar