

Neutral Citation No. - 2024:AHC-LKO:77609-DB

Court No. - 1

Case :- WRIT - A No. - 11100 of 2024

Petitioner :- State Of U.P. Thru. Prin. Secy. Appointment Lko. And 2 Others

Respondent :- Suresh Kumar Pal

Counsel for Petitioner :- C.S.C.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Manish Kumar,J.

1. Vakalatnama filed on behalf of the sole respondent by Sri Yogendra Singh, Advocate is taken on record.
2. Heard Sri Manish Jauhari, learned Additional Chief Standing Counsel appearing for the State-petitioners and Sri Yogendra Singh, learned counsel for the sole respondent.
3. By means of this writ petition, the State-petitioner has come up against the judgment/order passed by the U.P. Public Service Tribunal, Lucknow in Claim Petition No.1512 of 2022 whereby the order of punishment inflicted upon the respondent i.e., stoppage of two increments with cumulative effect has been set aside with all consequential service benefits.
4. Briefly stated the facts of the case are that the respondent was proceeded against with the issuance of a charge-sheet dated 09.02.2021 for a major penalty. Two charges were levelled against the respondent. The first charge levelled against the respondent was to the effect that on the date of allotment of a fair price shop through election when the local residents of the Gram Sabha were participating, the respondent being deputed to ensure the smooth proceedings was unable to manage and on eruption of a dispute amongst the residents, he left the spot without making any effort of dispersing the crowd, as such, an occurrence took place. Essentially, the charge is to the effect that if the respondent had persuaded the residents to go home by persuading them, no such occurrence of loss of life would have taken place.

5. The second charge levelled against the respondent is for not informing the higher authorities as regards the emerging situation. The enquiry report submitted by the enquiry officer in the present case does not find charge no.2 as having been proved. Therefore, the punishment of withholding of two increments with cumulative effect is solely based on the findings recorded by the enquiry officer relating to charge no.1 which according to the enquiry report is said to have been proved.
6. On a close scrutiny of charge no.1, we find that the imputation levelled against the respondent was of running away from the spot and not persuading the residents to create any ruckus or violence. This charge levelled against the respondent is based on solitary documentary evidence of a letter of the District Magistrate dated 15.10.2020. The letter dated 15.10.2020 is also available on record and the same is extracted hereunder:-

"प्रेषक,
जिलाधिकारी,
बलिया
सेवा में,
अपर मुख्य सचिव,
नियुक्ति विभाग,
उत्तर प्रदेश शासन,

संख्या: 107 /आ०ले०जि०- उ०जि०वै० दिनांक: अक्टूबर 15, 2020
विषय: ग्राम दुर्जनपुर, जनपद बलिया में हुई घटना के सम्बन्ध में रिपोर्ट।

महोदय,

अवगत कराना है कि ग्राम दुर्जनपुर, थाना रेवती, जनपद बलिया में रिक्त सरकारी सस्ता गल्ला की दुकान के चयन हेतु ग्रामसभा की बैठक हेतु खण्ड विकास अधिकारी बैरिया द्वारा दिनांक 15.10.2020 की तिथि नियत की गयी थी। उक्त बैठक में शान्ति एवं कानून व्यवस्था हेतु श्री सुरेश कुमार पाल, उप जिलाधिकारी बैरिया एवं श्री चन्द्रकेश सिंह, क्षेत्राधिकारी बैरिया, रेवती थाने के 03 उप निरीक्षक सहित आरक्षीगण मौके पर उपस्थित थे। ग्रामसभा की बैठक में ऐसा प्रतीत होने पर कि अन्य ग्रामसभा के लोग भी हैं, अधिकारियों द्वारा आधार कार्ड या अन्य पहचान पत्र हेतु अनुरोध किया गया। इस बात को लेकर पक्षों के मध्य विवाद की स्थिति के कारण बैठक स्थगित करने का निर्णय लिया गया एवं उप जिलाधिकारी एवं क्षेत्राधिकारी द्वारा सभी को अपने-अपने घर जाने का निर्देश दिया गया। इसी मध्य धीरेन्द्र प्रताप सिंह उर्फ डब्लू सिंह पुत्र विरेन्द्र प्रताप सिंह तथा ग्राम प्रधान के पक्ष के

गुटों में वाद-विवाद शुरू हो गया। वाद-विवाद के दौरान धीरेन्द्र प्रताप सिंह उर्फ डब्लू सिंह द्वारा रिवाल्वर/पिस्टल से जयप्रकाश पाल पुत्र गुमानी पाल को गोली मार दी गयी, जिस पर मौके पर उपस्थित पुलिस बल द्वारा कतिपय लोगों के साथ जयप्रकाश पाल को सामुदायिक स्वास्थ्य केन्द्र सोनबरसा लेकर जाया गया, जहाँ चिकित्सकों द्वारा उन्हें मृत घोषित किया गया। धीरेन्द्र प्रताप सिंह उर्फ डब्लू सिंह व उसके साथ के अन्य लोग मौके से भाग गये।

अधिकारियों एवं पुलिस बल की उपस्थिति में अभियुक्त शस्त्र लेकर आये तथा घटना कारित करने के पश्चात भाग गये तथा उनके विरुद्ध कोई कार्यवाही नहीं की गयी। उक्त घटना में उपस्थित अधिकारियों द्वारा भीड़ को पूर्ण रूप से हटाये जाने की कार्यवाही प्रभावी रूप से किये जाने की दशा में इस प्रकार की घटना नहीं घटित होती। इस कार्य में प्रभावी रूप से कार्यवाही नहीं की गयी।

चन्द्रमा पाल पुत्र गुमानी पाल की तहरीर के आधार पर धीरेन्द्र प्रताप सिंह उर्फ डब्लू सिंह सहित 08 व्यक्तियों के विरुद्ध प्रथम सूचना रिपोर्ट दर्ज कर टीम बनाकर दबिश व गिरफ्तारी की कार्यवाही करायी जा रही है तथा शव को पोस्टमार्टम हेतु जिला चिकित्सालय, बलिया भेजा गया है। मौके पर शान्ति व्यवस्था की कोई समस्या नहीं है। मौके पर पुलिस बल तैनात है एवं जिलाधिकारी व पुलिस अधीक्षक द्वारा संयुक्त रूप से भ्रमण कर एवं उपस्थित रहकर शान्ति व्यवस्था सुनिश्चित कराये जाने तथा अभियुक्तों की गिरफ्तारी का प्रयास किया जा रहा है।

आख्या जिलाधिकारी महोदय की सहमति से सादर अवलोकनार्थ व आवश्यक कार्यवाही हेतु प्रेषित।

भवदीय,

(राम आसरे)

अपर जिलाधिकारी (वि/रा) बलिया"

7. Having regard to the contents of the letter dated 15.10.2020 as extracted above, we fail to understand as to how the charge imputed against the respondent would have at all been levelled which clearly indicates the presence of the respondent throughout. The fact of running away is not at all reflected from the letter dated 15.10.2020 and there is equally no basis of the allegation that the respondent had failed to persuade the residents to return back home.
8. The allegation against an officer that he ran away from the spot is altogether a different case as compared to his failure to persuade the mob to disperse. The letter dated 15.10.2020 nowhere suggests that the respondent had run away by

disowning the administrative duty. The said letter rather ratifies the presence of the charged officer.

9. The claim petition has also averred that the similarly situated persons who were present along with the respondent were inflicted a minor penalty of 'censure' and that being so, the respondent was subjected to a discriminatory treatment.
10. All these aspects of the matter, on the basis of the pleadings set-out before the Tribunal were duly appreciated in the light of written statement filed by the State. The Tribunal having regard to the rival contentions and arguments putforth has clearly recorded a finding to the effect that the procedure prescribed for conducting the enquiry was not followed by fixing any date, time and place and no witness was examined for proving the documents placed reliance upon.
11. Learned counsel for the State is unable to demonstrate as to how the findings recorded by the Tribunal are perverse. The discriminatory treatment which the respondent was met with has also not been explained convincingly in the writ petition.
12. In these circumstances, the prayer for reopening the enquiry by the disciplinary authority, in our considered opinion, is a submission unworthy of being accepted to meet the ends of justice. This Court having regard to the exhaustive reasons recorded by the Tribunal is not convinced to take a different view, therefore, no interference is called for under Article 226 of the Constitution of India.
13. Thus, the writ petition being bereft of merit, is **dismissed** at the admission stage.

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(Manish Kumar, J.) (Attau Rahman Masoodi, J.)

Order Date :- 23.11.2024

akhilesh/-