

Court No. - 6

Case :- WRIT - A No. - 11903 of 2024

Petitioner :- Kamal Nayan Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Food And Civil Supplies Lko. And Another

Counsel for Petitioner :- Ramesh Singh

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

1. Heard Sri Ramesh Singh, learned counsel for the petitioner as well as learned Standing counsel for the respondents.
2. The petitioner being aggrieved by the order of punishment dated 13.10.2022 as well as order dated 18.11.2024 whereby the appeal against the order of punishment has been rejected, has preferred the present writ petition.
3. It has been submitted that the petitioner was appointed in 2008 on the post of Regional Food Officer and subsequently promoted to the post of in-charge District Supply Officer. When he was posted as District Supply Officer, Raebareli, the disciplinary proceedings were initiated against him under the provisions of U.P. Government Servants (Discipline and Appeal) Rules, 1999. Charge sheet was given to the petitioner on 21.9.2020 leveling two charges against the petitioner. The petitioner had denied the said charges in the reply submitted by him on 16.1.2021. The inquiry officer concluded the inquiry vide order dated 24.3.2021 where both the charges were found not proved. After submission of the inquiry report the impugned order has been passed by Commissioner, Food and Civil Supplies, Lucknow holding the petitioner to be guilty of both the charges and awarded punishment of censure entry.
4. Learned counsel for the petitioner submits that the impugned order of punishment is illegal and arbitrary in as much as after submission of the inquiry report in case the disciplinary authority disagreed with the finding of the inquiry officer, he was required to give show cause notice to the petitioner on the grounds on which he disagreed and only after giving due opportunity of hearing to the petitioner he could have proceeded further and inflicted the petitioner with penalty in the said proceedings. He submits that without following the said procedure the disciplinary authority has acted in violation of the Rules of 1999 and, therefore, the impugned order is illegal and arbitrary.

5. It is noticed that the disciplinary authority while passing the impugned order has duly considered this fact that the inquiry officer has exonerated the petitioner of both the charges and further recorded the fact that he disagrees with the said finding of the inquiry officer. Without giving reasons for his disagreement he has straightway proceeded to award the punishment to the petitioner. The procedure adopted by the disciplinary authority is clearly alien to the Rules of 1999 where as per Rule 9(2) it was mandatory to give reasons for disagreeing with the inquiry report and it is only after giving due opportunity of hearing to the petitioner he should have proceeded with the matter of passing the order of punishment. Rule 9 (2) of the Rules of 1999 is reproduced as under:-

"(2) The disciplinary authority shall, if it disagrees with the findings of the Inquiry Officer on any charge, record its own findings thereon for reasons to be recorded."

6. Learned Standing counsel, on the other hand, has opposed the writ petition but could not dispute the aforesaid facts.

7. Considering the submission of the petitioner, it is noticed that as per the Rule 9 (2) it is provided that the disciplinary authority if he disagrees with the findings of the inquiry officer he ought to have recorded the reasons for disagreement. From the aforesaid provisions it is clear that the disciplinary authority has to give reasons for his disagreement and further provide opportunity to the petitioner to rebut the reasons recorded by the disciplinary authority but by not following the said procedure the disciplinary authority as acted in violation of Rule 9 (2) of the Rules of 1999 and consequently the impugned order is illegal and arbitrary.

8. For the aforesaid reasons, the writ petition is **allowed**. The impugned orders dated 13.10.2022 and 18.11.2024, as contained in Annexure No.s 1 and 2 to the writ petition, are set aside.

9. The matter is remitted back to the disciplinary authority to proceed afresh from the stage of submission of the inquiry report.

10. Let the remand proceedings be conducted expeditiously, say within a period of two months from the date a certified copy of this order is placed before him, in accordance with law.

(Alok Mathur, J.)

Order Date :- 18.12.2024
RKM.