

Neutral Citation No. - 2025:AHC:83966

Judgment Reserved on 13.5.2025.

Delivered on 20.5.2025.

Court No. - 6

Case :- WRIT - A No. - 32046 of 2017

Petitioner :- Manoj Kumar Singh

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Anil Kumar Tiwari,Ganesh Datt Mishra

Counsel for Respondent :- C.S.C.,Shyam Krishna Gupta

Hon'ble Saurabh Shyam Shamshery,J.

1. Sri Anil Kumar Tiwari, learned counsel for petitioner and Sri A.K. Nagvanshi, learned Additional C.S.C. for State.
2. The petitioner was appointed as Assistant Teacher on 6.9.2002 at Primary School Bhathwa Pandey, Block Salempur, District-Deoria. He was promoted on the post of Head Master at Primary School on 4.12.2009.
3. The District Basic Education Officer vide order dated 12.7.2011, put the petitioner under suspension on an allegation of forgery on cheque issued for purpose of school expenditure.
4. An F.I.R. was lodged against the petitioner and he remained in Jail from 10.8.2011 to 18.8.2011 and later on vide order dated 12.3.2012, he was reinstated in service with a direction to stop

salary for the above referred period when he was in jail subject to outcome of criminal trial.

5. Learned counsel for the petitioner submitted that District Basic Education Officer vide order dated 19.12.2014, again put the petitioner under suspension on a ground that during an inspection conducted on 17.12.2014, he was found absent as well as school was also found closed. Accordingly, a charge-sheet was served upon him on 24.12.2014 on following charges.

"1. आरोपित अध्यापक द्वारा दिनांक 12.07.2011 को प्रातः 09.01 बजे अपनी व्यक्तिगत मो० नं०- 9936767681 से श्री रामू प्रसाद, तत्कालीन सहायक बेसिक शिक्षा अधिकारी, भलुअनी के व्यक्तिगत मो० नं० — 9454640553 पर फोन करके माँ, बहन की भद्दी-भद्दी गालियाँ दी गयीं। जान से मारने तथा दोनो हाथ काटने की धमकी दी गयी।

2. आरोपित अध्यापक द्वारा प्रा० वि० नईखास, वि०क्षे०- भलुअनी, जनपद-देवरिया में प्र०अ० के पद पर रहते हुए रंगई पोताई के मद में रु० 5000.00 (Five Thousands) का चेक काट कर ग्राम प्रधान से हस्ताक्षर कराने के बाद कूट रचना करते हुए रु० 25,000.00 (Twenty Five Thousands) का धन आहरित कर लिया गया जिसके क्रम में ग्राम प्रधान द्वारा शिकायत किये जाने पर तत्कालीन स०बे०शि०अ० द्वारा एल०पी०सी० एवं सेवा पुस्तिका लम्बित किया गया जिसके वजह से आरोपित अध्यापक द्वारा उनसे जातीय दुश्मनी रखा गया।

3. आरोपित अध्यापक द्वारा किसी अनुसूचित जाति के अधिकारी जो कि इनके नियंत्रक भी है। उनके खिलाफ धमकी देना जातिसूचक शब्दों का प्रयोग करना, एवं अपमान जनक शब्दों का प्रयोग किया जाना शिक्षक सेवा नियमावली के प्रतिकूल है।"

6. Petitioner submitted his reply to the charge-sheet and explained the reasons for his absence on the date inspection was conducted. After the inquiry, an inquiry report was submitted on 30.1.2015.

7. Learned counsel for the petitioner submitted that inquiry report was not based on explanation submitted by the petitioner on charges mentioned in the charge-sheet, rather Inquiry Officer has

made a subsequent inspection on 27.1.2015 and inquiry report was essentially submitted only on basis of a fresh inspection report that petitioner was again found absent from the school. He was on medical leave when earlier inspection was conducted on 17.12.2014. Number of students were less and standard of education was also found to be average.

8. In the aforesaid circumstances, a show cause notice was served upon the petitioner ordering him to appear with explanation , but petitioner did not appear on 4.9.2015 to place his case.

9. In the aforesaid circumstances, impugned order dated 15.9.2015 was passed by Basic Education Officer, whereby petitioner was demoted to his initial post. Subsequently, representation was rejected by Secretary, U.P. Basic Education Board on 28.12.2016 Relevant part of order dated 15.9.2015 is mentioned hereinafter:

"निर्णय

उपरोक्त विवेचना से स्पष्ट है कि आरोपित श्री मनोज कुमार सिंह के विरुद्ध गतिमान अनुशासनात्मक प्रक्रिया विभागीय नियमों एवं प्रक्रियाओं के अनुक्रम में, पूर्णतया तटस्थ व निष्पक्ष रूप से की गयी है। उपरोक्त जाँच प्रक्रिया में आरोपित अध्यापक पूर्णतया दोष सिद्ध पाये गये हैं। अतः आरोपित अध्यापक श्री मनोज कुमार सिंह को पर्याप्त साक्ष्यों के आधार पर वृहद दण्ड का भागी पाते हुए, उ०प्र० सरकारी सेवक (अनुशासन एवं अपील) नियमावली, 1999 के तहत इन्हें सहायक अध्यापक प्राथमिक विद्यालय के प्रारम्भिक वेतन क्रम (मूल वेतन 9300+4200) पर पदावनत करतेहुए प्राथमिक विद्यालय शाहपुर भीखम, विकास क्षेत्र- पथरदेवा, जनपद — देवरिया पर बहाल किया जाता है। "

10. Learned counsel for the petitioner submitted that procedure for conducting inquiry for imposing major penalty as provided under Rule 7 of U.P. Government Servant (Discipline and Appeal) Rules, 1999, was not followed. Inquiry report ought to have been

submitted on charges mentioned in the charge-sheet and in case some additional fact was required to be inquired, a supplementary charge-sheet ought to have been issued, but the same was not issued as such, consideration in the inquiry report on basis of subsequent inspection was contrary to law.

11. Learned counsel for the petitioner lastly submitted that petitioner was not granted time to submit his reply to the show cause notice and by an ex-parte order, a major penalty was imposed.

12. Per contra, learned Additional Chief Standing Counsel has supported the impugned orders and submitted that principles of natural justice was substantially complied with and despite opportunity, petitioner failed to submit his reply to the show cause notice, therefore, punishment order was passed.

13. In regard to the submissions of taking note of inquiry report, learned Additional Chief Standing Counsel further submitted that it only corroborates that petitioner has repeated his misconduct. He further submitted that punishment on the proved charges was neither shocking nor disproportionate.

14. I have considered the above submissions and perused the records.

15. It is well settled that Inquiry Officer has to consider reply to the charges mentioned in the charge-sheet and in case some additional charges are framed, the delinquent has to be put on notice. However, as referred above, Inquiry Officer during inquiry has conducted a fresh inspection and report thereof was taken note of without putting the petitioner on notice, as such procedure

being alien to above referred provision makes the procedure defective.

16. In the aforesaid circumstances, Court takes note that petitioner has sought time to submit his reply to the inquiry report, but the same was not granted, thus the petitioner was not able to place his case before the Disciplinary Authority, thus the principles of natural justice was not completely followed at this stage.

17. In the aforesaid circumstances, Court takes note that the charges which were considered to be proved were based on two inspection reports. So far as subsequent inspection report is concerned, it was not communicated to the petitioner, therefore, charges could be considered to be proved. Otherwise also, even on proved charges, punishment of demotion can be considered as disproportionate.

18. Accordingly, impugned orders dated 15.9.2015 and 28.12.2016 are set-aside and matter is remanded to Disciplinary Authority to initiate departmental proceedings by forwarding copy of inquiry report along with fresh show cause notice to the petitioner so that he may submit his reply within a period of three weeks and thereafter proceedings shall be concluded within a period of six weeks.

19. With the aforesaid direction, this writ petition is disposed of.

Order Date :- 20.5.2025

SB