

Court No. - 4

Case :- WRIT - A No. - 4188 of 2000

Petitioner :- Kailash Shanker

Respondent :- Ditt.Magistrate Kheri And 1 Ors

Counsel for Petitioner :- A.Misra,Amitabh Mishra,Pankaj Kr. Srivastava,S.P. Singh

Counsel for Respondent :- C.S.C.

Hon'ble Irshad Ali,J.

1. Heard Sri Amitabh Mishra, learned counsel for the petitioner and learned Standing Counsel for the State-respondent.
2. The present writ petition has been filed, challenging the order dated 21.12.1999, passed by the respondent No.1, contained in Annexure-7 to the writ petition with the further prayer to issue a writ of mandamus directing the respondents to allow the petitioner to work as an Assistant Accountant in the Treasury at Lakhimpur Kheri and to pay salary regularly for the said post.
3. Facts in brief are that the petitioner was initially appointed on the post of Assistant Accountant in the Treasury at Lakhimpur Kheri. A charge sheet was issued to the petitioner on 5.11.1993 without copy of the documentary and oral evidence mentioned in the same. The petitioner requested the Enquiry Officer that he be furnished with a copy of documentary evidence and statements of witnesses. He submitted reply to the charge sheet on 14.12.1993. After submission of said reply, the Enquiry Officer did not fix any date, time and place for holding the enquiry. The Enquiry Officer submitted his report to the disciplinary authority.
4. The disciplinary authority passed the order of reversion of the petitioner to the post of Junior Clerk. Being aggrieved by the order of punishment, the petitioner challenged the same before this Court by way of Writ Petition No.2156 (S/S) of 1999, which was allowed and the impugned order was set aside, vide judgment and order dated 27.7.1999. Thereafter, the petitioner was issued a show cause notice, enclosing with the copy of the enquiry report on 26.10.1999. The petitioner submitted a detailed reply on 10.11.1999. Vide impugned order dated 21.12.1999, the punishment order dated 15.3.1994 has been upheld and passed afresh against the petitioner, whereby the petitioner was reverted on the post of Junior Clerk and adverse entry was recorded in the character roll of the petitioner. The said order has been assailed in the present writ petition.

5. While entertaining the writ petition, this Court passed an order on 8.8.2000, which is being quoted below :-

"...

In the meantime, the impugned order of punishment dated 21.12.99 shall remain stayed till next date of listing."

6. On perusal of the interim order, it is evident that operation of the impugned order was stayed. In compliance of the order, the petitioner continued to hold the post of Assistant Accountant and continued thereon. After the grant of interim order, the petitioner was placed under suspension vide order dated 31.10.2000, which was also assailed in a separate writ petition which was treated to be an application in the present writ petition. On 29.11.2001, an interim order was granted, staying the operation of the order of suspension. The petitioner continued to hold the post of Assistant Accountant and retired from the said post on completion of service on 30.11.2015.

7. The District Magistrate, upon enquiry, held the petitioner to be not guilty of the charges levelled against him, vide order dated 24.2.2016. Thereafter, the matter was taken up by this Court on 30.3.2017, wherein there was certain observation that the State Government can initiate *suo-motu* revision proceeding against the order of the District Magistrate and in compliance thereto, the State Government, treating the revision to be filed against the order of the District Magistrate, passed an order on 23.3.2018, affirming the order of the District Magistrate, holding the petitioner to be not guilty of the charges. Meaning thereby, at present, there is no disciplinary proceeding pending against the petitioner.

8. On perusal of the record, it is transpired that on attaining the age of superannuation, the petitioner has retired and no disciplinary proceeding is pending against him. The impugned order was stayed by this Court and on the said basis, the petitioner continued in service and has been paid salary, therefore, no useful purpose will be served in keeping the writ petition pending before this Court.

9. Accordingly, without entering into the merits of the case, the writ petition is finally **disposed of** with the direction to the respondent No.1 to consider the claim of the petitioner for the payment of post retiral dues, as admissible to him within a period of six weeks from the date of production of a certified copy of this order.

Order Date :- 5.12.2022

Gautam