

STATE PUBLIC SERVICES TRIBUNAL, INDIRA BHAWAN, LUCKNOW.

Present: Hon'ble Mr Suresh Chandra, Vice-Chairman (Admn.)

Hon'ble Mr Jitendra Kumar Singh, Member(Judicial)

Claim Petition No. 510/2024

Vidya Sagar Verma, Inspector (Civil Police), aged about 57 years, son of Sri Ram Bujharat, r/o-Setapur, District-Jaunpur, presently posted as Inspector, District-Bahraich.

.....Petitioner

Versus

1. State of U.P. through Addl. Chief Secretary, Department of Home, Govt. of U.P. Civil Secretariat, Lucknow.
2. Addl. Director General of Police, Lucknow Zone, Lucknow.
3. Inspector General of Police, Lucknow Range Lucknow.
4. Superintendent of Police, District- Hardoi.

.....Opposite Parties

JUDGEMENT

(By Hon'ble Mr. Jitendra Kumar Singh, Member (Judicial)).

This claim petition has been filed by petitioner under Section-4 of the U.P. Public Services (Tribunal) Act, 1976 and sought the following reliefs:-

- (i) To set aside the impugned order dated 31.03.2023(Annexure No. 1), appellate order dated 20.06.2023 (Annexure No. 2) and revisionary order dated 22.02.2024 (Annexure No. 3) passed by the opposite party no. 4, 3 and 2.
- (ii) Hon'ble Tribunal may graciously please to direct the opposite parties to provide all consequential service benefits, ignoring the impugned punishment orders dated 31.03.2023, 20.06.2023 and 22.02.2024.
- (iii) That cost of the claimed petition may kindly be awarded to the petitioner and such other reliefs may kindly be awarded as are deemed fit and proper in the circumstances of the case. .

2. Briefly stated, case of petitioner is that on the basis of C.B.I. Report dated 20.04.2019, IG Lucknow Range, Lucknow by order dated 24.05.2019 directed to S.P. Hardoi to initiate departmental proceedings against the

petitioner. In compliance of aforesaid order, S.P. Hardoi was entrusted the departmental proceeding to the then Addl. S.P. Hardoi under Rule 14(1) of Punishment and Appeal Rules, 1991, Thereafter, a charge sheet dated 21.06.2021 was issued to the petitioner which is reproduced below:-

"आप थानाध्यक्ष अतरौली जनपद हरदोई के पद पर दिनांक 25.04.2011 से दिनांक 23.03.2012 तक नियुक्त रहे हैं। दिनांक 11.01.2012 को थाना अतरौली पर मु0अ0सं0 25/2012 धारा 302 भादवि बनाम अज्ञात पंजीकृत हुआ था, जिसकी प्रारम्भिक विवेचना आपके द्वारा संपादित की गयी। आप द्वारा उ0नि0 राम निवास तथा आरक्षियों के साथ घटनास्थल किचन नारायण हाई स्कूल अतरौली का निरीक्षण किया गया था। निरीक्षक के उपरान्त आप दोपहर 12:00 बजे किसी निजी कार्य के लिए लखनऊ गये, जीडी में सुबह 08:30 बजे मा0 उच्च न्यायालय में न्यायालय के काम से जाना अंकित पाया गया तथा वापसी का अंकन जीडी में नहीं किया गया। ऐसा प्रतीत होता है कि मामले की गम्भीरता को देखते हुए स्वयं के बचाव में सुबह 08:30 बजे की जीडी अंकित की गयी। समाचार पत्रों में खबर छपने के बाद भी आप द्वारा कोई कानूनी कार्यवाही दिनांक 11.01.2012 तक नहीं की गयी। तदोपरान्त दिनांक 11.01.2012 को वादी अभिनव सिंह तोमर की तहरीर पर मु0अ0सं0 25/2012 धारा 302 बनाम अज्ञात पंजीकृत किया गया। विवेचनात्मक कार्यवाही के मध्य आपने डॉ0 अनिल कुमार रस्तोगी के बयान दिनांक 02.02.2012 को अंकित किये जिसमें अंकित है कि मरने के बाद जलाने के कोई लक्षण नहीं पाये गये तथा मृतका सरिता सिंह तोमर की मृत्यु जलने से हुयी है और एण्टी मोर्टम इन्जरी के कोई निशान नहीं है, जबकि डॉ0 आर0 के0 रस्तोगी ने ऐसा कुछ बयान देने से साफ इंकार किया और यहाँ तक बताया कि उनका नाम भी बयान में गलत लिखा गया है। आपके द्वारा विवेचनात्मक कार्यवाही के मध्य श्री रामऔतार यादव जो श्री राम स्वरूप सिंह के मुंशी थे का बयान अंकित किये गये परन्तु इन्होंने भी कोई भी बयान आपको विवेचनात्मक कार्यवाही के दौरान दिये जाने से इंकार किया। यहाँ तक कि मुकदमा पंजीकृत होने के उपरान्त आप द्वारा घटनास्थल का निरीक्षण एफएसएल टीम से नहीं कराया गया और न ही कोई सबूत विवेचना के लिए इकट्ठे किये गये। आप द्वारा दिनांक 05.02.2012 को मुकदमा उपरोक्त में मात्र 25 दिनों में अंतिम रिपोर्ट प्रेषित कर दी गयी जिसमें अंकित किया गया कि सरिता सिंह तोमर की मृत्यु किचन में गैस पाइप के ब्लास्ट से हुयी है तथा उनकी हत्या नहीं की गयी है।

इस प्रकार आपके द्वारा तत्कालीन थानाध्यक्ष के पद पर नियुक्त रहते हुए एक लोकसेवक होने के नाते आपका दायित्व था कि आप अपने कर्तव्यों का निर्वहन करते और लापरवाहीपूर्वक तथ्यों का विवेचना में शामिल नहीं करते। इस मामले में आपके द्वारा किया गया यह कृत्य जनता के लिए असहनीय है और पुलिस विभाग जैसे अनुशासित बल की छवि को धूमिल करता है जिससे स्पष्ट है कि आप द्वारा अपने पदीय दायित्वों का निर्वहन न करते हुए घोर

अनुशासनहीनता,
सम्बन्ध में –

लापरवाही व स्वेच्छाचारिता बरते जाने के
आपका यह कृत्य अपने कर्तव्य पालन में अनुशासनहीनता, घोर
लापरवाही एवं स्वेच्छाचारिता का द्योतक है। ”

Petitioner submitted reply to the charge sheet on 27.09.2021 denying all the charges levelled against him. Later on an explanation dated 01.06.2022 was also submitted by the petitioner to the next presiding officer. On the basis of finding, a show cause notice was issued to the petitioner on 16.01.2023 by S.P. Hardoi. Petitioner submitted his detailed reply on 15.02.2023 denying all the charges levelled against him. Thereafter, order dated 31.03.2023 passed by the opposite party no. 4 whereby the petitioner has been punished by reducing upon minimum pay scale for 1 year under rule 14(1) of the Uttar Pradesh Police Officers of Subordinate Rank (Punishment & Appeal)Rules 1991 for the year 2023. Feeling aggrieved by the aforesaid order dated 31.03.2023, petitioner preferred appeal before the Appellate Authority, which was dismissed by order dated 20.06.2023. The petitioner preferred revision on 18.07.2023 which was also dismissed by Revisionary Authority by order dated 22.02.2024. The contention of the petitioner is that impugned punishment order is non-speaking and unreasoned. Charge sheet was issued to the petitioner on the ground of C.B.I. report. In the present case, no preliminary enquiry was conducted against the petitioner. The charge sheet was not approved by the competent authority. Recommendation of punishment in findings is not permissible as per law. Criminal trial is still pending and rule-18 of U.P. Police Officers of the Subordinate Ranks Punishment and Appeal Rules 1991 is clearly violated while passing the impugned punishment order. Impugned orders passed by the opposite parties are in violation of principles of natural justice, hence this claim petition.

3. *Opposite parties have filed their written statement denying material allegations mentioned in reference petition. They have stated that petitioner*

committed irregularity for which a charge sheet and a show cause notice were issued upon petitioner. Full opportunity of hearing was given to the petitioner to defend his case, thereafter; punishment of reduction in rank in lower pay scale for one year has been awarded to him. Against the above order petitioner filed appeal and revision which was also rejected in accordance with rules. Allegations of petitioner are devoid of merits. Orders passed against the petitioner are in accordance with rules. Grounds shown in support of reference petition are devoid of merit, so petition deserves to be dismissed.

4. Reiterating his earlier submissions, the petitioner filed his R.A. wherein he submitted his version in view of the pleas agitated by the opposite parties.

5. We have heard the learned Counsel for the petitioner as well as the learned P.O. appearing on behalf of the opposite parties and perused the record available on the file.

6. Learned counsel for the petitioner has contested the case on the grounds that impugned punishment order is non-speaking and unreasoned. Charge sheet was issued to the petitioner on the ground of C.B.I. report. In the present case, no preliminary enquiry was conducted against the petitioner. The charge sheet was not approved by the competent authority. Recommendation of punishment in findings is not permissible as per law. Criminal trial is still pending and rule-18 of U.P. Police Officers of the Subordinate Ranks Punishment and Appeal Rules 1991 is clearly violated while passing the impugned punishment order. Impugned orders passed by the opposite parties are in violation of principles of natural justice and is liable to be dismissed. On the other hand learned P.O. appearing on behalf of the opposite parties has contested the case on the grounds that petitioner committed irregularity for which a charge sheet and a show cause notice were issued to him, giving him opportunity to submit his explanation/representation and in pursuance to same petitioner submitted his reply to show cause notice and disciplinary authority

after considering the relevant record has passed reasoned and speaking punishment order dated 31.03.2023, which does not suffer from any illegality or irregularity. Perusal of the appellate order and revisionary order itself reveals and goes to establish that all the pleas and grounds raised by the petitioner in the departmental appeal & revision have been considered and adjudicated by the appellate authority and revisionary authority and as such, the appellate order and revisionary order are reasoned and speaking order and does not suffer any illegality or irregularity. It is further submitted by the learned P.O. that the scope of judicial review is confined to decision making process and the petitioner in the para under reply has not raised any plea with regard to any illegality or irregularity in the decision making process and re-appreciation of the evidences is not within domain of judicial review.

7. The Learned P.O. has averred that the contents of Para 4.12 to 4.14 of the claim petition are misconceived, concocted and incorrect and the case laws referred by petitioner is not applicable because the case laws referred by him have not been passed in respect to the U.P. Subordinate Police Officers (Punishment and Appeal) Rule 1991, the enquiry officer is empowered to recommend the punishment and the recommendation of punishment by the enquiry officer will not vitiate the punishment order as settled by Hon'ble High Court in case of **Asheesh Pathak Vs. State of U.P. through Principal Secretary Department of Home Affairs Lko{SERVICE SINGLE NO. 143 OF 2015}** wherein it has held as under:-

"Consequently, when the facts of the instant case were tested on the touchstone of the law laid down by the Hon'ble Supreme Court in the case of Harendra Kumar (supra) what this Court finds is that the inquiry officer was perfectly empowered to recommend punishment while submitting the inquiry report. Merely because instead of recommending the punishment separately, the same become a part of the inquiry report would not vitiate the inquiry report in as much as no prejudice is caused nor has been pleaded by the petitioner to have been caused as a copy of the inquiry report had obviously been given and served upon the petitioner and the petitioner was asked to submit his explanation thereof. Further, the judgments over which reliance has been

placed by the learned Counsel for the petitioner namely in the case of Ram Pal Singh (supra) and

8. Learned P.O. has further averred that irrelevant facts stated by the petitioner in para under reply because Para-492, 493 of Police Regulation does not have any applicability in the present case because no criminal case has been registered against the petitioner and Regulation -492 & 493 of Police Regulation is attracted when a police officer is judicially tried and as such since petitioner has not been judicially tried on the subject matter as such Regulation -492 & 493 of Police Regulation does not have any relevancy and applicability in case of petitioner.

9. Learned P.O. appearing on behalf of the opposite parties has placed reliance on the case of **National Fertilizer Ltd. and Another vs. P.K.Khanna [(2005) SCC (L & S) 10006]** wherein it has been held as under:-

"In view of the contents of the impugned order, it is difficult to say that the punishing authority had not applied his mind to the case before terminating the services of the appellant. The Punishing Authority had placed reliance upon the report of the enquiry officer which means that he has not only agreed with the findings of the enquiry officer, but also accepted the reasons given by him for the findings. In our opinion, when the punishing authority agrees with the findings of the enquiry officer and accepts the reasons given by him in support of such findings, it is not necessary for the punishing authority to again discuss evidence and come to the same findings as that of the enquiry officer and give the same reasons for the findings. We are unable to accept the contention made on behalf of the appellant that the impugned order of termination is vitiated as it is a non-speaking order and does not contain any reason. When by the impugned order the punishing authority has accepted the findings of the enquiry officer and the reasons given by him, the question of non-compliance with the principles of natural justice does not arise. It is also incorrect to say that the impugned order is not a speaking order. "

10. Learned P.O. appearing on behalf of the opposite parties has also placed reliance on the case of **Boloram Bordoloi vs. Lakhimi Gaolia Bank & Ors, Civil Appeal No. 4394 of 2010** wherein para-7 it has been held as under:-

"We are of the view that the judgment of this Court in the case of Managing Director, ECIL, Hyderabad is not

helpful to the case of the appellant. Further, it is well settled that if the disciplinary authority accepts the findings recorded by the Enquiry Officer and passes an order, no detailed reasons are required to be recorded in the order imposing punishment. The punishment is imposed based on the findings recorded in the enquiry report, as such, no further elaborate reasons are required to be given by the disciplinary authority. "

11. Learned P.O. appearing on behalf of the opposite parties has also placed reliance on the case of **Inspector General of Police And Anr vs. Thavasiappan, 1996 AIR 1318, 1996 SCC (2) 145, JT 1996 (6) 450, 1996 SCALE (1) 522** wherein it has been held as under:-

"Before we consider the requirement of Rule 3(b) we will refer to the three decisions cited by the learned counsel for the appellant. He first invited our attention to the decision of this Court in *State of Madhya Pradesh Vs. Shardul Singh* 1970 (1) SCC 108. In that case a departmental enquiry was initiated against a Sub Inspector of Police by Superintendent of Police who after holding an enquiry sent his report to the Inspector General of Police who ultimately dismissed the Sub Inspector of Police from service. The order of dismissal from service was challenged before the High Court of Madhya Pradesh on the ground that the enquiry held by Superintendent of Police was against the mandate of Article 311(1) of the Constitution as he was incompetent to conduct the enquiry. The Sub Inspector of Police was appointed by the Inspector General of Police. The High Court allowed the petition. The State preferred an appeal to this court. Rejecting the contention that the guarantee given under Article 311(1) includes within itself a further guarantee that disciplinary proceedings resulting in dismissal or removal of a civil servant should be initiated or conducted by the authorities mentioned in that article, this Court held as under:

"This Article does not in terms require that the authority empowered under that provision to dismiss or remove an official, should itself initiate or conduct the enquiry preceding the dismissal or removal of the officer or even that enquiry should be done at its instance. The only right guaranteed to a civil servant under that provision is that he should not be dismissed or removed by an authority subordinate to that by which he was appointed. "

The Court further held that "we are unable to agree with the High Court that the guarantee given under Article 311(1) includes within itself a further guarantee that the disciplinary proceedings resulting in dismissal or

removal of a civil servant should also be initiated and conducted by the authorities mentioned in that Article."

12. It is also submitted by the learned P.O. that facts, reasons and circumstances as stated above, the pleas and grounds taken by the petitioner in the Para 5(1) to 5(20) of the claim petition are incorrect, baseless and as such, the present claim petition filed by the petitioner has no force and is liable to be dismissed.

13. We have also perused the punishment order dated 31.03.2023, wherein it is clearly mentioned that:-

" प्रश्नगत प्रकरण की पुनः जाँच केन्द्रीय अन्वेषण ब्यूरो नई दिल्ली द्वारा सम्पादित की गयी। जाँच में दोषी पाये जाने के फलस्वरूप इनके विरुद्ध विभागीय कार्यवाही किये जाने की संस्तुति की गयी। इसके फलस्वरूप प्रश्नगत प्रकरण में इनके विरुद्ध उ०प्र० अधीनस्थ श्रेणी की (दण्ड एवं अपील) नियमावली-1991 के नियम 14(1) के अन्तर्गत विभागीय कार्यवाही सम्पादित किये जाने हेतु श्री कुवर ज्ञानजय सिंह, तत्कालीन अपर पुलिस अधीक्षक, हरदाई को पीठासीन अधिकारी नियुक्त किया गया। उनके स्थानान्तरण के फलस्वरूप श्री अनिल कुमार यादव, अपर पुलिस अधीक्षक पूर्वी हरदाई को पीठासीन अधिकारी नियुक्त किया गया। विभागीय कार्यवाही के दौरान साक्ष्य/अभिलेखीय साक्ष्य एवं अभिकथन आदि से पीठासीन अधिकारी द्वारा इनके ऊपर लगाये गये आरोप को प्रमाणित पाते हुए प्रकरण में इनको दोषी पाया गया है।

उक्त आरोप के सम्बन्ध में उ०प्र० अधीनस्थ श्रेणी पुलिस अधिकारियों की (दण्ड एवं अपील) नियमावली-1991 के नियम 14(1) के अन्तर्गत नियम 4(1) खण्ड (क) के उप नियम-3 के अनुसार निरीक्षक के न्यूनतम वेतनमान में तीन वर्ष हेतु प्रत्यावर्तित किये जाने हेतु कारण बताओ नोटिस दिनांक 16.01.2023 निर्गत किया गया। निर्गत कारण बताओ नोटिस को उक्त निरीक्षक ना०पु० द्वारा दिनांक 17.01.2023 को प्राप्त किया गया, जिसका इनके द्वारा अपने बचाव में अपना लिखित स्पष्टीकरण दिनांक 15.02.2023 को दिया गया। इनके द्वारा दिये गये स्पष्टीकरण दिनांकित 15.02.2023 को मेरे द्वारा भलीभाँति अवलोकन किया गया तथा पत्रावली पर उपलब्ध अभिलेखों का परिशीलन किया गया। विचारोपरान्त इनका स्पष्टीकरण संतोषजनक नहीं पाया गया। फिर भी इनके स्पष्टीकरण पर सहानुभूतिपूर्वक विचार करते हुए इन्हें कारण बताओ नोटिस में प्रस्तावित दण्ड निरीक्षक के न्यूनतम वेतनमान में तीन वर्ष हेतु प्रत्यावर्तित किये जाने के स्थान पर निरीक्षक के न्यूनतम वेतनमान में एक वर्ष हेतु प्रत्यावर्तित किये जाने का आदेश पारित किया जाता है। "

14. In view of the facts and circumstances of the case and the submission made by the learned P.O. We are of the opinion that order passed by the punishing authority is well reasoned, we are satisfied with the view of the

punishing authority that petitioner shown laxity in his duty, is fully justified. Police Force is a disciplined force and laxity on part of employee cannot be justified. Superintendent of Police, Hardoi has awarded punishment of reduction in rank in lower pay scale for one year to the petitioner based on enquiry which needs not to be interfered. Inspector General of Police, Lucknow Range Lucknow and Addl. Director of Police, Lucknow Zone, Lucknow have also passed reasoned and speaking orders. We find no violation of procedure or of any principle of natural justice justifying interference.

15. In the light of the above observations and facts the petition is without force and liable to be dismissed.

ORDER

The claim petition is dismissed. There is no order as to costs.

*Sd/-
(Jitendra Kumar Singh)
Member (Judicial)*

*Sd/-
(Suresh Chandra)
Vice-Chairman(Admn.)*

Judgment signed, dated and pronounced in the open court today.

*Sd/-
(Jitendra Kumar Singh)
Member (Judicial)*

*Sd/-
(Suresh Chandra)
Vice-Chairman(Admn.)*

Dated: 08th November, 2024
MK/