

Arvind Kumar Yadav vs State Of U.P. Thru Prin Secy Food Safety ... on 16 July, 2022

Author: Alok Mathur

Bench: Alok Mathur

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

RESERVED JUDGMENT

Court No. - 8

Case :- WRIT - A No. - 3922 of 2022

Petitioner :- Arvind Kumar Yadav

Respondent :- State Of U.P. Thru Prin Secy Food Safety And Drug Administration Deptt Lko.

Counsel for Petitioner :- Girish Chandra Verma

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

1. Heard Sri Girish Chandra Verma, learned counsel for the petitioner as well as learned Standing Counsel for the respondents.
2. By means of present writ petition the petitioner has assailed order of suspension dated 14.06.2022, passed by the Principal Secretary, Food Safety and Drug Administration Department, Government of U.P., Lucknow.
3. It is submitted by learned counsel for the petitioner that petitioner was working on the post of

Assistant Commissioner (Food) Grade-II/Designated Officer, appointed under Section 36 of the Food Safety and Standards Act, 2011 (hereinafter referred to as "the Act, 2011"), and was posted at District - Mau.

4. Perusal of impugned order would indicate that on the basis of a report submitted by the District Magistrate, Sitapur, dated 12.05.2022, the impugned suspension order has been passed. It was noticed by the District Magistrate that the petitioner who was discharging his duties as Assistant Commissioner, (Food) Grade-II has committed serious irregularities in distribution of Food Licenses and was not taking interest in departmental work and also was not informing to his superior authorities. It has further been stated that the petitioner is working against public interest and he has issued licenses for meat slaughter without following set rules amongst other charges.

5. Learned counsel for the petitioner submits that the impugned order of suspension is illegal, arbitrary and has been passed without application of mind and in support of his submissions he has argued that all the allegations made against the petitioner are false and in his defense he has stated that petitioner had issued licenses after following all the provisions contained in the Act, 2011 and also denied all the allegations leveled in the impugned order. In support of his arguments, counsel for the petitioner has relied upon the judgments of this Court rendered in Dhirendra Kumar Rai Vs. State of U.P., 2010 (28) LCD 1248, Pragi Lal Vs. State of U.P. and Others, 2013 (4) ADJ 192 and State of U.P. Vs. Arun Kumar Singh and Another, 2015 (5) ADJ 224.

6. The order of suspension has been passed in contemplation of departmental proceedings on various allegations of misconduct against the petitioner which are mentioned therein. Summary of allegations has been stated in the order of suspension and details of the charges were only to be supplied alongwith the charge sheet. The charges, on the face of it are serious as the petitioner in exercise of his power while discharging his official duties as Assistant Commissioner (Food), Grade-II, where he is licensing authority and was discharging various statutory obligations under the Act, 2011, misused his position and issued the same in violation of provisions of law.

7. Petitioner's suspension is based upon the report submitted by the District Magistrate, Sitapur and it cannot be said that the exercise of power by the respondents is either arbitrary or without any material.

8. In any view of the matter, considering the fact that the order of suspension has been passed by the competent authority in contemplation of departmental proceedings and the gist of the allegations has been given in the order itself. It cannot be said that there is any infirmity or illegality in the impugned order. The impugned order further records that the allegations leveled against the petitioner are of serious nature and the Special Secretary, Food Safety and Drug Administration, Department has been appointed as the Inquiry Officer and further the petitioner has been attached with the office of Commissioner, Food Safety and Drug Administration Department, Lucknow.

9. The judgment relied upon by learned counsel for the petitioner are clearly distinguishable from the facts of the present case.

10. This Court in the case of Pragi Lal (supra), had interfered in the order of suspension noticing that the petitioner therein had earlier been suspended and enquiry was conducted against him where he was exonerated and again he was placed under suspension. The said case is clearly distinguishable on facts and hence is not applicable to the case of the petitioner.

11. In the case of Arun Kumar Singh (Supra), the order of suspension was revoked and the petitioner therein had claimed that period of suspension should be considered as being spent on duty. In the said case minor penalty was imposed upon the petitioner therein and where minor penalty is sought to be invoked, an order of suspension is not warranted, but in the present case charges are serious as they may entail major penalty upon the petitioner consequently, the case judgment is not applicable to the fact of the case in hand.

12. Learned counsel for the petitioner has also placed reliance on the judgment of this Court in the case of Dhirendra Kumar Rai (supra), specially on paragraph 99 of the said judgment and has submitted that suspension order can be passed only when there are serious allegations that may warrant delinquent employee's removal, dismissal or termination . This Court has perused the impugned order of suspension and has noticed that there are serious allegations that the petitioner being licensing authority has distributed licenses in violation of statutory provisions has he has not followed the rules while distributing the said licenses and even various orders of the superior authorities have not been complied with by him.

13. While adjudicating upon illegality of the order of suspension, this Court ordinarily would not go into veracity of the allegations leveled against the petitioner inasmuch as same is required to be done during disciplinary proceedings for which purpose detailed charge sheet is liable to be given to the petitioner. At this stage this Court in exercise of powers under Section 226 of the Constitution of India, would hold a limited inquiry whether charges are so grave as to entail suspension of the delinquent employee and this Court would not proceed to conduct an enquiry or evaluate the veracity of charges leveled against the petitioner so as to return a finding so as to exonerate him of the said charges.

14. In the light of above, this Court is satisfied that there are serious allegations leveled against the petitioner and there is no infirmity in the impugned order of suspension so as to warrant any interference by this Court. Needless to say that the respondents are at liberty to give charge sheet to the petitioner expeditiously, within prescribed time and conclude the enquiry expeditiously.

15. In the light of discussion made above, this Court do not find any infirmity or illegality in the impugned order of suspension. The writ petition is accordingly dismissed.

Order Date :- 16.07.2022 A. Verma (Alok Mathur, J.)