

Binod Kumar, Sub-Inspector Vs State of U.P. and Others

Court: Allahabad High Court

Date of Decision: Sept. 23, 2010

Acts Referred: Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 "Rule 14(2), 4

Hon'ble Judges: Dilip Gupta, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Dilip Gupta, J.

The petitioner, who is a Sub-Inspector in U.P. Police, has sought the quashing of the order dated 9th July, 2010 passed by

the Superintendent of Police, Fatehgarh on the ground that the punishment of withholding of integrity is not contemplated under Rule 4 of the U.P.

Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 (hereinafter referred to as the "Rules").

2. In this connection, learned Counsel for the petitioners has placed before the Court the decision of the Supreme Court in State Bank of India and

others Vs. T.J. Paul, and the decision of this Court in Writ Petition No. 71219 of 2005 Narendra Kumar Agrawal v. State of U.P. and Ors.

decided on 30th July, 2009.

3. Learned Standing Counsel appearing for the respondents states that it is not necessary to file a counter affidavit and the petition may be

disposed of at this stage.

4. In T.J. Paul (supra), the Supreme Court observed as follows:

...Here, the gradation of the punishments has been fixed by the rules themselves, namely, the rules of Bank of Cochin and the Court is merely

insisting that the authority is confined to the limits of its discretion as restricted by the rules. Inasmuch as the rules of Bank of Cochin have

enumerated and listed out the punishments for "major misconduct", we are of the view that the punishment of "removal" could not have been

imposed by the appellate authority and all that was permissible for the Bank was to confine itself to one or the other punishment for major

misconduct enumerated in para 22(v) of the rules, other than dismissal without notice....

5. In Narendra Kumar Agrawal (supra), this Court observed:

...So far as the punishment of withholding integrity is concerned, learned Counsel for the petitioner submits that under Rule 14(2) of U.P. Police

Officer of Subordinate Rank (Punishment and Appeal) Rules, 1991 (Hereinafter referred to as the "Rule"), no such punishment is provided,

therefore, the punishment of withholding integrity is without jurisdiction and the same deserves to be set aside for want of jurisdiction.

To substantiate his arguments he cited a decision of the Hon"ble Supreme Court rendered in the case of State Bank of India and others Vs. T.J.

Paul,

Upon perusal of the provision of Rule, 1991, I find force in the submissions of the learned Counsel for the petitioner.

Accordingly, I am of the view that the punishment of withholding integrity of petitioner is without jurisdiction and, I hereby quash it.

6. The punishment of withholding of integrity is not a punishment contemplated under Rule 4 of the Rules.

7. In view of the submissions advanced by the learned Counsel for the petitioners and the aforesaid decisions, the orders dated 9th July, 2010

passed by the Superintendent of Police, Fatehgarh is set aside. It shall, however, be open to the respondents to pass a fresh order in accordance

with law.

8. The writ petition is allowed to the extent indicated above.