

(2012) 01 AHC CK 0775

Allahabad High Court

Case No: Writ - A No. - 2256 of 2012

Jai Prakash

APPELLANT

Vs

U.P. Power Corporation Ltd. and
Others

RESPONDENT

Date of Decision: Jan. 13, 2012

Acts Referred:

- Uttar Pradesh Government Servants (Discipline and Appeal) Rules, 1999 - Rule 4

Hon'ble Judges: Sudhir Agarwal, J

Bench: Single Bench

Advocate: Vinod Sinha, Mahesh Sharma, for the Appellant; Pankaj Kumar Shukla, for the Respondent

Final Decision: Allowed

Judgement

Hon'ble Sudhir Agarwal, J.

Heard Sri Vinod Sinha, learned counsel for the petitioner and Sri Pankaj Kumar Shukla, learned counsel appearing for the respondents. With the consent of learned counsel for the parties, I proceed to decide the matter finally at this stage under the Rules of the Court. Assailing the order of suspension dated 29.12.2011 Sri Vinod Sinha, learned counsel for the petitioner contended that a reading of the entire order nowhere shows that the same has been passed on a contemplated or pending departmental enquiry and hence it is illegal and contrary to the statute which permits suspension of an employee/ officer in a contemplated or pending departmental enquiry.

3. The question whether such an order of suspension would be valid, came up for consideration before a Division Bench in [Smt. Meera Tiwari Vs. Chief Medical Officer and others](#), wherein it was held as under :

3. From the said rule it appears that a Government Servant against whose conduct an inquiry is contemplated, or is proceeding may be placed under suspension

pending the conclusion of the inquiry. The impugned order of suspension does not refer to any contemplated inquiry or the fact that any inquiry is pending.

4. In that view of the matter, we are of the view that the order of suspension is against the provisions of Rule 4 of the U.P. Government Servant (Discipline & Appeal Rules, 1999 and the same cannot be sustained.....

3. A similar dispute came up for consideration before another Division Bench of this Court in Special Appeal No. 180 of 2007 (Hari Shanker Misra Vs. State of U.P. & others) decided on 27.2.2007 in which, following the judgment in Meera Tiwari (supra), suspension order was set aside since it was nowhere mentioned therein that the order of suspension was passed either in contemplation of disciplinary proceedings or pendency thereof. The same view has also been adopted by another Division Bench (in which I was also a member) in Radhey Shyam Srivastava Vs. State of U.P. & others 2008 (1) ADJ 466.

4. In the result, writ petition is allowed. Impugned order of suspension dated 29.12.2011 (Annexure 4 to writ petition) passed by respondent no. 3 is hereby quashed. However, the respondents shall be at liberty to pass a fresh order in accordance with law.