

Constable No. 55 Bhukhan Ram Vs State of U.P. and Others

Court: Allahabad High Court

Date of Decision: April 16, 2013

Citation: (2013) 5 AWC 5400 : (2013) 2 UPLBEC 1413

Hon'ble Judges: Tarun Agarwala, J

Bench: Single Bench

Advocate: B.D. Mishra, for the Appellant;

Final Decision: Allowed

Judgement

Tarun Agarwala, J.

Heard the learned counsel for the petitioner and the learned standing counsel. The petitioner was not found on duty

and when accosted was found drunk. He was sent for a medical examination, in which a report was given that he was under the influence of

alcohol. On the basis of the preliminary inquiry, a show cause notice was issued and thereafter an order under Rule 14 of the U.P. Police Officers

of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 (hereinafter referred to as the Rules of 1991) was issued terminating the services

of the petitioner, who was a Constable. The petitioner, being aggrieved, filed an appeal, which was also dismissed. Thereafter, the petitioner

preferred a revision, which also met the same fate. The petitioner, being aggrieved, has filed the present writ petition.

2. A punishment of termination of service has been issued by the respondents under Rule 14 of the Rules of 1991. The order of punishment is a

major punishment. Rule 5 of the Rules of 1991 provides that where a major punishment enumerated in Clause (a) of sub-rule (1) of Rule 4 of the

Rules of 1991 is to be awarded then the procedure laid down in sub-rule (1) of Rule 14 of the Rules of 1991 is required to be followed. Sub-rule

(1) of Rule 14 of the Rules of 1991 contemplates that a departmental proceeding is required to be conducted in accordance with the procedure

laid down in Appendix-I. Appendix-I of the Rules provides that a formal inquiry would be instituted, a charge-sheet would be formulated, definite

charge or charges would be served in the prescribed format, the delinquent officer would be given time to defend himself and that an Inquiry

Officer would thereafter conduct an oral inquiry in respect of the allegations which are not admitted.

3. In the instant case, the Court finds that no such formal inquiry as provided under Rule 14(1) of the Rules of 1991 were made by the

respondents. Only a show cause notice was issued and, thereafter on the basis of the preliminary inquiry, the impugned order terminating the

services of the petitioner was passed.

4. In the opinion of the Court, the order of punishment is in gross violation of Rule 14(1) of the Rules of 1991. No Inquiry or formal inquiry was

instituted nor the charges have been proved in a departmental inquiry.

5. Consequently, on this short ground, the impugned order of termination of the services of the petitioner cannot be sustained and is quashed. The

appellate and the revisional order also cannot be sustained and are quashed. The writ petition is allowed. The petitioner would be reinstated in

service. It would be open to the respondents to continue with the inquiry from the stage where it had left and it would also be open to the authority

to pass an order on the arrears of salary.