

(2018) 11 UK CK 0166
Uttarakhand High Court
Case No: Writ Petition (S/S) No. 274 Of 2009

Udaiveer Singh

APPELLANT

Vs

State And Another

RESPONDENT

Date of Decision: Nov. 15, 2018

Hon'ble Judges: Sharad Kumar Sharma, J

Bench: Single Bench

Advocate: Tapan Singh, V.D. Bisen

Final Decision: Dismissed

Judgement

Sharad Sharma, J

1. The petitioner had superannuated from the services of the respondent on 31.12.2008. On the date of retirement he was served with the order of punishment dated 31.12.2008, under challenge in the Writ Petition, by virtue of which the respondent on the basis of the culmination of enquiry against him for the irregularities and for the loss suffered by the department had issued a direction to recover the amount of Rs.5,25,116.88/-. Simultaneously, by the said order the arrears of the salary for the suspension period were also forfeited. Challenging these orders the petitioner has preferred the present Writ Petition, wherein, it is an admitted case that for the alleged loss suffered by the department an enquiry was conducted and the Inquiry Officer thus appointed, i.e. the Regional Accounts Officer Food, Garhwal Region, Dehradun, has submitted his enquiry report on 06.08.2004 calling upon the petitioner to submit his explanation within 15 days. In accordance with the show cause notice dated 18.09.2004, which accompanied with it

the copy of the enquiry report dated 06.08.2004, soliciting the explanation from the petitioner. However, this enquiry report, which was served on the petitioner, has not been made as part of the Writ Petition.

2. The case of the petitioner is that in accordance with the show cause notice and on scrutiny of the enquiry report dated 6. 08.2004, as a matter of fact, as many as six charges were framed against him in relation to the loss suffered by the department due to the pilferages and in stocking of rice and wheat. On scrutiny of the charge-sheet (Annexure-2 to the Writ Petition) out of total six charges (charge nos. 1 to 5 not disputed) it ultimately concluded that looking to the gravity of charge a major punishment may be imposed against the petitioner directing to recover the amount of Rs.5,25,116.88/-, which was the loss which was suffered by the department. To this charge-sheet the petitioner submitted his reply on 27.09.2004. On scrutiny of Annexure-3 to the Writ Petition, which is a reply to the charge-sheet the petitioner has submitted that he does not want to submit any reply with regards to the charge Nos. 1 to 5 and rather he admitted these charges submitted against him. The reply submitted by the petitioner on 27.09.2004 he has confined himself to charge No. 6, which was framed in the following manner:

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vipkjh deZpkjh ij vkjksi gS fd muds }kjk fnukad 3-2-2004 o 6-2-2004 dks 1 fofHkUu ljdkjh ILrk xYyk foÃ~srkvksa dks 390-45dq0 pkoy ch0ih0,y0 o 18-

55dq0 pkoy vUR;ksn; dk QthZ fuxZeu iznfâ€kZr dj mDr ek=k dk xcu fd;k x;kA mDr ek=k dk fuxZeu vipkjh deZpkjh }kjk dsUnz dh udn fcÃ~h iath

esa fd;k x;k ijUrq lacaf/kr foÃ~srkvksa ds izkfIr Lo:Ik gLrk{kj ugha dj;k;s x;s rFkk mldh izfofâ€™V foÃ~srkvksa dh LVkd iath o dksVk dkMZ esa

ugha dh x;hA

mi ftykf/kdkjh] :M+dh dks vius fyf[kr c;kuksa esa ljdkjh ILrk xYyk foÃ~srkvksa us mDr ek=k dk ewY; tek djus o mDr ek=k dh izkfIr ls bUdkj fd;k x;k

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[kjkc gks tkus ds dkj.k o nok ysus pys x;s rFkk vf/kuLFk prqFkZ Js.kh deZpkfj;ksa }kjk pkoy fuxZr fd;k x;k rFkk foÃ~srkvksa ds gLrk{kj ugha dj;k;s

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vkjksi ds leFkZu esa miyC/k lk{; ,oa vipkjh deZpkjh }kjk izLrqr mRrj dh tkap djus ij ;g fl) gksrk gS fd vipkjh deZpkjh }kjk â€œækkluknsâ€k }kjk

fu/kkZfjr izfÃ~;k dk ikyu ugha fd;k x;k rFkk fofHkUu 17 ljdkjh lLrk xYyk foÃ~srkvksa ds uke QthZ fcÃ~h iznfâ€kZr dj 390-45dq0 pkoy ch0ih0,y0 o

18-55dq0 pkoy vUR;ksn; dk xcu fd;k x;k ,oa mDr ;kstuk ds ykHkkfFkZ;ksa dks [kk| kUu ls oafpr dj vipkjh deZpkjh dk ;g d`R; {kE; ugha gSA foHkkx

dks 390-45+18- 55=409-00x1091-21=4]46]304-89 dh vkfFkZd gkfu gqbZ gS rFkk lacaf/kr ;kstukvksa ds ykHkkFkhZ [kk| kUu ls oafpr j[k x;s gSa ;g

vkjksi iw.kZr% fl) gksrk gSA

3. Considering the fact that the petitioner has confined his contest only in relation to charge No. 6 the impugned order dated 31.12.2008 has to be

scrutinized by this Court only so far it relates to the finding recorded on charge No. 6 only. Referring to the charge No. 6 as quoted above, it pertains

to the disbursement of the food grains to the various fair price shops for the period as given in the charge-sheet.

4. On scrutiny of the impugned order what is reflected is that the petitioner has fraudulently disbursed 390.45 quintals of rice to the persons shown to

be of BPL level category and 18.55 quintals of rice to other category of persons and had submitted as a fraudulent disbursement slips and was

instrumental in misappropriating public money by wrongful disbursement of the food grains as referred in charge No. 6. The Investigating Officer on

conclusion of the enquiry had recorded a finding that the petitioner had not followed the guidelines, which has been issued by the State Government,

which is required to adhere to for the purposes of disbursement food grains of the fair price shop, and after concluding enquiry it was established that

a fraudulent disbursement slips were manufactured by him and thereby he was hold to be responsible for embezzlement / loss, which has been

suffered by the department to the tune of Rs.5,25,116.88/-.

5. According to the impugned order also on the culmination of the enquiry proceedings an enquiry report dated 06.08.2004 was served upon the

petitioner calling upon him to submit his reply and on considering the reply submitted by the petitioner the disciplinary authority found him to be

responsible for the loss suffered due to fraudulent distribution slips prepared by him, he does not challenge the departmental proceedings based on any procedural flaw, but rather on fact, which may not be the scope of interference by Writ Courts.

6. Considering the fact to the findings, which has been recorded in the impugned order as well as the pleadings raised in the Writ Petition in brief the

petitioner has rather admitted the guilt with regards to the charge Nos. 1 to 5 and so far as the charge No. 6 is concerned that has been proved by the

Investigating Officer, coupled with the fact, that the writ petitioner does not plead any procedural flaw or irregularity in the departmental proceedings.

This Court does not find any merit in the Writ Petition. Accordingly, the same is dismissed. There will be no order as to cost.