

Ram Prakash

Vs

State of Punjab and Others

Civil Appeal No. 1462 of 1987

(A. P. Sen, B. C. Ray JJ)

20.07.1987

ORDER

1. Special leave granted. Arguments heard.

2. In the reply filed by the Senior Subordinate Judge, Hoshiarpur dated February 11, 1987, it is averred in para 9(f) that the appellant in connivance with Rama Kant, Naib Nazir had tampered with the entries in the attendance register and that he had made false statement and gave false explanation in collusion with him regarding the instrument and execution of the attachment warrants. Learned counsel for the appellant has placed on record copy of the order passed by Mr. Justice Surendra Singh dated December 9, 1984 allowing the revision preferred by the said Rama Kant, Naib Nazir and setting aside the penalty of removal from service on the ground that there was denial of reasonable opportunity under Article 311(2) of the Constitution inasmuch as he was not afforded a full and complete opportunity to cross-examine the solitary witness Shri G. S. Sewak, Subordinate Judge, Garhshanker, PW 1. Since there is to be a fresh inquiry against the Naib Nazir, we find no reason to deprive the appellant of such an opportunity in terms of the order passed by the learned Administrative Judge.

3. Accordingly, the judgment and order passed by the High Court dismissing the writ petition filed by the appellant as well as the order passed against the appellant by the Senior Subordinate Judge, Hoshiarpur for his removal from service under Rule 5(8), Part III of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 are set aside and we direct that the Senior Subordinate Judge, Hoshiarpur, who is the Inquiry Officer, should afford a further opportunity to the appellant to cross-examine Shri G. S. Sewak. The evidence so recorded by the Inquiry Officer shall be in addition to the material already on record. The Inquiry Officer shall consider the matter afresh on the basis of the evidence now to be recorded and thereafter inflict such punishment as the appellant deserves for his alleged misconduct. The appellant shall have the usual remedy of an appeal to the District Judge and revision to the High Court. We direct the District and Sessions Judge, Hoshiarpur to transmit the records of the case to the Senior Subordinate Judge immediately.

4. The appeal is disposed of accordingly.

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