

Court No. - 2

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Case :- MISC. BENCH No. - 12798 of 2021

Petitioner :- Kamlesh Kumar Dixit

Respondent :- State Of U.P. Thru. Prin. Secy. Law, Lko. & Ors.

Counsel for Petitioner :- Ashutosh Misra, Alok Kr. Misra

Counsel for Respondent :- C.S.C., Gaurav Mehrotra

Hon'ble Rajan Roy, J.

Hon'ble Saurabh Lavania, J.

Heard learned Counsel for the petitioner, learned Standing Counsel and Shri Vijay Dixit, learned Counsel for opposite party no. 3.

The petitioner herein was appointed as member of the Permanent Lok Adalat, Unnao on 29.09.2016. By the impugned order dated 19.03.2021, the Member Secretary has informed him that the Executive Chairman, Uttar Pradesh State Legal Service Authority has directed him to inform that he is being suspended from the membership of Permanent Lok Adalat, Unnao with immediate effect based on a preliminary inquiry conducted by Shri Bhagirath Verma, OSD, UPSLSA, wherein the petitioner has been found prima facie guilty of firstly taking illegal gratification of Rs. 5000/- from Shri Ram Gopal. Secondly, misconduct with other Permanent Lok Adalat officials and causing disappearance of a Court file. By the same order a final inquiry has been instituted against him and Chairman/District Judge, District Legal Service Authority, Unnao has been designated as inquiry officer.

The contention of learned Counsel for the petitioner is that there is no provision for suspension of a Member of the Permanent Lok Adalat although there is a provision for his removal based on an inquiry which is contained in Rule 5 of Permanent Lok Adalat (Other Terms and Conditions of Appointment of Chairman and Other Persons) Rules, 2003 {hereinafter referred as Rules, 2003}.

The office held by the petitioner is a tenure office. The petitioner prior to being nominated for the office of Member, Permanent Lok Adalat was an Advocate practicing at Unnao itself.

Considering the seriousness of the allegations which have been prima facie found to be true, subject of course to the final inquiry which has been instituted obviously in terms of Rule 6 of the Rules, 2003 referred hereinabove for the purposes of

consequential action under Rule 5 if the allegations are found to be true, this Court is not inclined to interfere in the matter. Permanent Lok Adalat's were constituted with a noble object to provide relief in specified matters to the litigants so that they may not have to undergo the rigor of regular Court proceedings. Even if there is no provision for suspension under the Legal Services Authority Act, 1987 as amended in 2003 and thereafter, nor is there any such provision in the Rules of 2003. Considering the nature of the allegations against the petitioner it is not in the interest of the functioning of the Permanent Lok Adalat at Unnao to allow the petitioner to continue to function during pendency of the inquiry. Although, the principles of service jurisprudence may not apply here but even in service jurisprudence the law is that even if there is no provision for suspension, the employer can suspend an employee but the only condition is that in such a scenario he would be entitled to full salary but in this case there is no question of paying salary to the petitioner, as, he is to get remuneration for the days has worked and learned Counsel for the petitioner himself admitted before this Court that no work is being assigned to him since 2019 nor any remuneration is being paid. He also submitted that his representation in this regard was pending when the impugned order has been passed. Merely because there is no specific provision to suspend a member of the Permanent Lok Adalat, it does not mean that he cannot be suspended even when there are such serious charges against him. Restraining him from working or suspending him from work is implied in the very term of appointment especially in the facts of the present case.

Considering the larger interest of functioning of Permanent Lok Adalat and the citizens who appear before it, we are not inclined to exercise our extraordinary jurisdiction under Article 226 of the Constitution of India to interfere in the matter except to the extent that the final inquiry which has been instituted shall be completed at the earliest provided the petitioner cooperates in the same and based on such inquiry a final decision shall be taken by the competent authority expeditiously. It is expected that this exercise shall be completed within 2 months, as the inquiry was instituted in March, 2021, unless there is a legal impediment in this regard.

Petition is **dismissed** for the aforesaid reasons.

Order Date :- 24.6.2021

Lokesh Kumar