

(2006) 03 J&K CK 0002

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 627 of 2005

Abdul Hai Shah

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 29-03-2006

Acts Referred:

Citation : (2011) 2 JKJ 920

Hon'ble Judges : Bashir. A. Kirmani, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Bashir A. Kirmani, J.—Claiming to have been appointed as Junior Engineer on contract basis under Government order No. 944-DRDK of

2004 dated: 21.09. 2004 the Petitioner is aggrieved of the termination of his services as such ordered under Government order No. 202-PW of

2005 dated: 10.5.2005 and seeks quashment of the same on the ground that having been passed without giving him a hearing, the order was liable

to be set aside as being violative under the settled constitutional norms particularly because even while it levels allegation of corruption against the

Petitioner, no case whatsoever with any allegation is pending against him before any Investigating Agency which renders the order factually also

unsustainable.

2. In their objections, the Respondents have contended that the Petitioner having been involved in corrupt practices was removed from

employment after terminating his contractual services in accordance with rules governing the same as such he had no ground to agitate against his

termination order etc. During course of submissions the learned Counsel

appearing for the parties have reiterated the contents of their respective pleadings with reference to annexures on record.

3.I have heard learned Counsel and considered the matter. Both the factum of Petitioner's appointment on contractual basis as also termination of

his service as such is admitted on both sides. The only question arising for consideration is as to whether the order of termination would be bad for

want of a prior hearing by Respondents. Incidentally, however, the rules governing contractual appointment whereunder the Petitioner was

appointed provide termination of such service on one month's salary in lieu of notice if the employer wanted to terminate the contract of services.

Rule 4 (2) of the Jammu and Kashmir Contractual Appointment Rules, 2003 clearly provides for such termination. For the sake of reference, the

same is quoted herein below:

(2) The services of an appointee under these rules shall be terminable before the expiry of the contractual period with one month's notice, from

either side, or on payment of one month's salary in lieu of notice by the appointing authority.

In presence of this rule, however, Petitioner can perhaps not challenge his unilateral termination by Respondents in accordance therewith without

challenging the rule on any ground whatsoever which does not appear to have been done incidentally, that being so, the petition in present forum

does not appear to be maintainable.

4. Accordingly for what has been discussed above, the petition is dismissed of course with an observation that the Petitioner shall be at liberty to

reagitate the matter while challenging the aforesaid rule, if so, advised. The matter stands accordingly dismissed alongwith connected CMPs.