
(2003) 03 JH CK 0121
In the Jharkhand High Court
Case No : WP (S) No. 4815 of 2002

Abdul Kalam

APPELLANT

Vs

BSRTC Bihar and Others

RESPONDENT

Date of Decision : 25-03-2003

Acts Referred:

Citation : (2003) 4 JCR 120

Hon'ble Judges : Vikramaditya Prasad, J

Bench : Single Bench

Advocate : Sandhya Sahay and Jitendra Nath, for the Appellant; S.N. Patha, for the Respondent

Judgement

1. The petitioner, is Sweeper in Bihar State Road Transport Corporation, Ranchi, He has absented without leave from 11.11.1998 to 30.7.2000. He was dismissed by Annexure-4 on the ground of his unauthorized absence from office for a long period. The cause of absence of the petitioner is that he was suffering from Tuberculosis, as a result of which he had not turned up before the respondents. The order impugned is not according to law. The dismissal order contained in Annexure-4 reads as follows :

"SHRI ABDUL KALAM, SWEEPER, RANCHI PRATI. KO DINANK 24.10.1998 KE BINA KISI SUCHANA KE ANADHIKRIT EVAM ANIRYAMAE DHANG SE ANUPASTHIT RAHANE KE AROP ME ES KARYALAY GYAPANK 1810, DINANK 31.7.1999 KE DWARA NILAMBIT KIYA GAYA EVAM ES KARYALAYA GYAPANK 1809, DINANK 31.7.1999 EK DWARA AROP PATRA KI PRAPTI EK SATH NILAMBAN ADESH KO NIBANDHIT DAK SE SHUDHA PATE PAR BHEJATE HUE SPASTIKARAN KE MANG KEE GAYEE, SPASTIKARAN NAHI PRASTUT KARANE EVAM KISI PRAKAR KEE SUCHANA NAHI DENE KE KARAN DAINIK SAMACHAR PATRA "PRABHAT Khabar" "HINDUSTAN", "RANCHI EXPRESS" ME DINANK 26.5.1999 KE, SANSKARAN ME YOGDAN KARANE KA PRAKASHAN KARAYA GAYA. YOGDAN NAHI KARANE PAR PUNAH DINANK 13.6.2000 KE DAINIK SAMACHAR PATRA "AAJ" KE SANSKARAN ME 10 (DAS) DINO KE ANDAR YOGDAN KARANE KA NIRDESH DIYA GAYA, KINTU

INKE DWARA NA TO YOGDAN HI KIYA GAYA AUR NA HI KISI PRAKAR KEE SUCHANA HI DEE GAYEE. jISASE SPAST HOTA HAI KI NIYAM KE DOSHI HAI. INHE KOI DILCHASPI NAHI HAI. ISASE PURWA ME LAMBI AWADHI TAK ANADHIKRIT EVAM ANIYAMIT DHANG SE ANUPASTHIT RAHE HAI. MAI ANADHIKRIT EVAM ANIYAMIT, DHANG SE ANUPASTHIT RAHANE KE ABHYASTH HAL AISE KARMCHARI NIGAM KA EK JOK KE SAMAN HAI.

ATAH VICHAROPARANT NIYAM HIT ME PRASHASANIK DRISTIKOR SE LAMBI AWADHI SE BINA KISI SUCHANA KE ANANDHIKRIT EVAM ANIYAMIT DHANG SE ANUPASTHIT RAHANE, NIYAM KE KARYO ME RUCHI NAHI RAKHANE EVAM ADHESH AWAHELANA KARANE KE AROP ME INHE APRAMANIK ANUPASTHIK KEE TITHI 24.10.1998 SEE NIGAM KEE SEVA SE SEWAMUKT KIYA JATA HAI. INHE NIRDESH DIYA JATA HAI KI AAP NIGAM KA KOI SAMAN YA RASHI HO TO AVILAMB JAMA KAR DE.

HA./R.B. RAM, PRA.

PRA. RANCHI.

BIHAR RAJYA PATH PARIWAHAN, RANCHI GYAPANK - 1260/RANCHI DINANK-25.7.2000 PRATILIPi : PRA. KE. PADA., RANCHI PRAVI. A.RI., RANCHI, GUMLA, DALTONGANJ, HAJARIBAGH EVAM SHRI ABDUL KALAM, SWEEPER, RANCHI PRATI. VIBHA. KO SUCHANARTH EVAM AWASYAK KARYARATH PRESIT."

2. From perusal of the order, it does not appear that any formal departmental proceeding was initiated or any inquiry officer was appointed, or any inquiry report was submitted. Therefore, this order does not appear to be in accordance with the principles of the general procedures to be adopted in departmental proceedings. Learned counsel for the respondents submits that there is provision for departmental appeal which the petitioner should have exhausted before coming to this Court in writ. In the circumstances aforesaid, the impugned order passed in the year 2000 and this writ was filed in the same year and two years have lapsed, so the impugned order is quashed with a liberty to disciplinary authority to initiate the departmental proceedings afresh in which the petitioner should co-operate and authority shall conclude the same within a period of two months. After setting aside of this impugned order, the petitioner will acquire his status which he had on the date prior to the impugned order.

3. With the aforesaid directions and observations this writ application stands disposed of.