
(2016) 02 MP CK 0079
In the Madhya Pradesh High Court
Case No : Writ Petition No. 3861 of 2016

Amit Sharma

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 25-02-2016

Acts Referred:

Citation : (2016) 1 MPWN 246

Hon'ble Judges : Rajendra Menon and S.K. Palo, JJ.

Bench : Division Bench

Advocate : Amitabh Gupta, Advocate, for the Appellant; Deepak Awasthy, Govt. Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

1. Considering the fact that many identical writ petitions have been allowed and identical orders of dismissal from service have been quashed by this Court, merely because, petitioner was posted in Gwalior, it is not necessary now to relegate the petitioner to file the petition in Gwalior when most of the contesting parties have their Head-quarter at Bhopal and a decision is taken primarily at Bhopal.

2. Keeping in view the aforesaid, office objection is overruled.

3. With consent heard finally.

4. By filing this petition under Article 226 of the Constitution of India, the petitioner has called in question the order [Annexure P-2] dated 7.01.2016. Briefly stated, the petitioner was appointed on the post of Constable [Transport Department]. On account of misconduct his services were terminated by the impugned order stating therein that as he is involved in major misconduct involving moral turpitude his services cannot be continued.

5. Learned counsel for the petitioner submits that prior to passing of the impugned order a show cause notice was issued of which reply was filed by the

petitioner denying the allegation but without holding any enquiry about the same, the services of the petitioner have been terminated by impugned stigmatic order.

6. Shri Deepak Awasthy, learned Government Advocate on the other hand submits that the order of termination of service is proper in view of the fact that the petitioner was probationer, and therefore no enquiry was required to have been conducted.

7. We have considered the submissions made by the learned counsel for the parties and have also gone through the impugned order passed by the Respondents. Having gone through the impugned orders, we find that in the order in detail the allegation of major misconduct involving moral turpitude has been levelled against the petitioner. The show cause notice issued to the petitioner was replied by him denying the allegation, however without holding any enquiry a finding has been recorded to the effect that the petitioner has committed the misconduct as alleged resulting into bad name to the Department therefore the petitioner is not entitled to be suitable for continuing in service.

8. In view of the aforesaid reasons recorded in the impugned order it is clear that a stigma has been casted on the petitioner while terminating his services without holding enquiry. In the circumstances, we are of the considered view that the order of termination of services of the petitioner cannot be maintained.

9. In the result, we set aside the impugned orders with liberty to the respondents to take appropriate action against the petitioner if so advised, in accordance with law, including holding of the enquiry for the alleged misconduct.

10. With the aforesaid liberty and directions, this petition stands disposed of.

11. C. C. as per rules.