
(2005) 09 UK CK 0026
In the Uttarakhand High Court
Case No : Special Appeal No. 54 of 2005

Anand Singh and Others

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 20-09-2005

Acts Referred:

Citation : (2006) 1 UC 227

Hon'ble Judges : Cyriac Joseph, C.J;J.C.S.Rawat, J

Bench : Division Bench

Advocate : V.K. Kohli, sisted by I.P. Kohli, for the Appellant; Subhash Upadhyaya for State and Beena Pandey for State of U.P., for the Respondent

Final Decision : Dismissed

Judgement

J.C.S. Rawat, J.—This Special Appeal has been preferred by the Appellants challenging the order dated 12-07-2005 of the learned Single Judge of this Court by which the learned Single Judge dismissed the Writ Petition preferred by the Appellants for seeking the relief in the nature of certiorari quashing the orders dated 20-12-1989 (Annexure 1, 2 and 3) terminating the services of the Appellants.

2. It is an admitted case of both the parties before the learned Single Judge that in order to meet the exigencies of the work, the Board of Revenue Respondent No. 2 (herein after referred as Board) decided vide order dated 15-01-1986 that those persons who had served the Department as untrained Lekhpals earlier for a minimum period of one year would be sent for regular training as prescribed in the Lands Record Manual. In pursuance of the above order of the Board, the Appellants being untrained Lekhpals applied for being sent on training in different schools for the said training. The Appellants were deputed to the Lekhpals Training School to undergo the training. On completion of the training, the Appellants appeared in the examination held in the month of January, 1988. There was shortage of trained Lekhpals and the Government work was suffering. The Board directed that all those candidates who had appeared in the Lekhpals

Training School examination and whose results had not been declared by the Board should be given appointment on verification of their past services, on the condition that in case they fail in the examination on declaration of the result, their services would stand terminated. In pursuance of the said order of the Board, the Appellants were given appointments vide order dated 08-09-1988 on the condition that their services would be terminated in case they fail in the examination held in the year 1988. The examination in respect of the Appellants was cancelled on the ground that the certificates of experience produced by them were false and fictitious and the services of the Appellants were terminated on 20-12-1989 (Annexure 1, 2 and 3).

3. Feeling aggrieved by the said orders, they preferred a writ petition with the prayer to quash the impugned orders of termination dated 20-12-1989 passed by Respondent No. 3 (Annexure 1, 2 and 3) and also the order of Board of Revenue Respondent No. 2 dated 28-10-1989. The Appellants further sought a writ in the nature of mandamus to direct the opposite party No. 2 to declare the Appellants' result forthwith. The learned Single Judge after hearing the parties, dismissed the said Writ Petition on 12-07-2005.

4. The Respondents alleged in their counter affidavit that the Board's order was very specific to the effect that only those-untrained Lekhpals would be sent on training who had worked as Lekhpals for a minimum period of one year. The Appellants had applied alongwith the certificates of experience to the effect that they had worked continuously for a period of one year. After sending the Appellants for training, the experience certificates submitted by the Appellants were sent for enquiry and verification. The Appellants' certificates were inquired by the District Magistrate, Moradabad and District Magistrate, Moradabad sent a letter dated 16-08-1989 by means of which it was stated that the Appellants defrauded the Government by submitting false and forged certificates. The Board (Respondent No. 2) took a decision that since the Appellants who had been sent on training of the Lekhpals had furnished false certificates of experience of services, their examination would be cancelled. After cancellation of the said results, the services of the Appellants were terminated by the impugned orders. The learned Single Judge has held that the Respondents have taken a specific case that since the experience of the Appellants were on inquiry found to be false, as such, their examination in the Training School was cancelled. The learned Single Judge has further held that it was a condition precedent for the appointment as Lekhpals to pass out examination from the Lekhpal Training School. The learned Single Judge has further held that merely for the reason that they sought training on the basis of false certificates, it could not be said that they passed Lekhpal Training examination.

5. The Appellants were not declared successful and their examination itself was cancelled, as such, the Appellants are not entitled to be retained in the services and as such, their services were rightly terminated. The learned Counsel for the Appellants contended that the services of the Appellants were terminated without

giving any opportunity to show cause or hearing and without assigning any reason. It was further contended that the learned Single Judge erred in holding that the experience certificates obtained by the Appellants were forged. There was no occasion to the Appellants to show anything about the certificates because the Appellants had no knowledge that their result was cancelled on the ground that their certificates were not found genuine. At no point of time this fact was ever communicated to the Appellants.

6. The Respondents have stated in their counter affidavit that the Appellants submitted false and forged certificates to the effect that they continuously worked for a period of one year as Lekhpals and as such, the Appellants were not entitled to be selected for training as they had not continuously worked for a period of one year as Lekhpals as indicated above. It was stated in the counter affidavit that the experience certificates were found, upon inquiry, to be false and fictitious and as such, the Appellants were not entitled to be retained in services. Though the Appellants filed a rejoinder affidavit, they have not stated in the rejoinder affidavit that they had worked for a period of one year as untrained Lekhpals. If they had worked in the Department as untrained Lekhpals, the Appellants could have safely stated in the rejoinder affidavit about the places where they had worked as untrained Lekhpals and the period thereof. The Appellants could have produced the experience certificates of the competent authority under whom they had worked. The Appellants could have summoned the official record of the Department from where they had worked. Absence of such evidence leads us to draw the inference that the averment in the counter affidavit of the Respondents are correct. In such circumstances, the learned Single Judge was justified in refusing to quash the impugned orders on the sole ground that Appellants were not given an opportunity of being heard before cancelling the examination and terminating their services. Since the Appellants did not fulfill the condition precedent for being sent to the training for the Lekhpals, their results were rightly cancelled. It has been clearly established that the Appellants were not declared successful in the examination and their examination itself was cancelled on the ground that they submitted false and fictitious certificates for the experience and as such, their services were rightly terminated.

7. Perusal of the impugned orders reveal that these orders (Annexure 1, 2 and 3) are not stigmatic. The Appellants were appointed on 08-09-1988 as temporary Government Servants and it was further mentioned in the appointment letter that their services would be terminated, in case, they fail in the examination held in the year 1988 and their services could be terminated without any notice. The Appellants had not passed the examination. Hence the competent authority terminated their services by an order of termination simpliciter without casting any stigma on them.

8. In view of the above, we do not find any substance in the contention of the learned Counsel for the Appellants. We are in complete agreement with the

findings recorded by the learned Single Judge. The Special Appeal is devoid of merit and is liable to be dismissed and the same is accordingly dismissed.