
(2019) 01 RAJ CK 0078
In the Rajasthan High Court
Case No : Civil Writ No. 1548 Of 2017

Arun Bithu

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 09-01-2019

Acts Referred:

Constitution Of India, 1950 — Article 12

Citation : (2019) 01 RAJ CK 0078

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : S.K. Verma, S.S. Ladrecha

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioner aggrieved against the order dated 27.1.2017 (Annex.10) and 28.1.2017 (Annex.11) passed by the respondent No.3 and 6 respectively.

The petitioner was engaged through a fixed term offer letter dated 3.9.2015 by respondent No.6 - T & M Services Consulting Pvt. Ltd. for the post of CMMU for its client, Directorate of Local Bodies, Jaipur Rajasthan and posted the petitioner at Bikaner. Pursuant thereto, a contract dated 3.12.2015 (Annex.3) was entered into between the petitioner and respondent No.6.

During course of service being rendered at Municipal Council, Bikaner, the Mayor Bikaner wrote to the Director, Local Self Body for looking into the behavior of the petitioner and sought disciplinary proceedings against him. The Project Director in turn by letter dated 27.1.2017 (Annex.10) required the respondent No.6 to take appropriate proceedings against the petitioner and terminate his services. Pursuant thereto, by order dated 28.1.2017 (Annex.11), services of the petitioner were terminated w.e.f. 27.1.2017.

Learned counsel for the petitioner made submissions that there is no basis for the complaint as made vide letter dated 19.1.2017 by the Mayor, Bikaner and

that the respondents have pursuant thereto pass the orders for terminating the services of the petitioner, which is contrary to the provisions of the contract entered into between the petitioner and respondent No.6, which requires one month's prior notice in writing or one month's salary in lieu of notice, which aspect has not been complied with by respondent No.6 and, therefore, the action as taken by the respondent No.6 in terminating the services of the petitioner deserves to be quashed and set aside.

Learned counsel for the respondent - Municipal Council made submissions that writ petition against the respondents is not maintainable, inasmuch as, so far as the passing of the order of termination is concerned, the said respondent - Municipal Council had no role and, therefore, the petition deserves to be dismissed.

Further submissions have been made that as the plea raised by the petitioner essentially is against the respondent No.6, which engaged the petitioner and terminated the services of the petitioner, the respondent No.6 not being a State, the petition as such is not maintainable against it and the petition, therefore, deserves to be dismissed.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

It is not in dispute that petitioner was engaged by respondent No.6 - a private firm, who was given contract by the respondent for supplying of manpower.

Once the respondent Municipal Council / Mayor was not satisfied with the services of the petitioner, it indicated the same to the Director, who in turn required respondent No.6 to take steps in this regard and respondent No.6 - firm, based on the said communication, has terminated the services of the petitioner.

Once the services of the petitioner have been terminated by respondent No.6, which it is alleged by the petitioner is contrary to the terms of engagement, the entire cause of the petitioner is against the said respondent No.6, which is a private firm and not a State under Article 12 of the Constitution of India and as such against the said firm, the writ petition does not lie.

So far as the challenge laid to the letter dated 27.1.2017 (Annex.10) written by the Project Director is concerned, the said letter by itself does not provide any cause to the petitioner as the said letter was not binding on the respondent No.6 - firm for taking action against the petitioner and merely because the respondent No.6 while passing the order terminating the services of the petitioner, did not purportedly comply with the terms of the contract, the indication made in the letters (Annex.9 & Annex.10) cannot be questioned by the petitioner.

In view of the above discussion, as the petitioner has no cause against the other respondents and the writ petition directed against the respondent No.6 a private firm is not maintainable, the same is, therefore, dismissed.