
(2004) 07 UK CK 0032

In the Uttarakhand High Court

Case No : Civil Miscellaneous Writ Petition No. 7311 (S/S) of 2001

Bhasker Joshi

APPELLANT

Vs

The State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 07-07-2004

Acts Referred:

Citation : (2004) 07 UK CK 0032

Hon'ble Judges : M.M.Ghildiyal, J

Bench : Single Bench

Advocate : C.D. Bahuguna, for the Appellant; Learned Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

M.M. Ghildiyal, J.—Heard Sri CD. Bahuguna, learned Counsel for the Petitioner and learned Standing Counsel for the Respondents.

2. By means of this writ petition, the Petitioner has prayed for a writ, order or direction in the nature of certiorari quashing the impugned order of termination dated 16-11-1999 passed by the Collector, District Bageshwar.

3. That facts, in brief, are that the District Magistrate, Almora after obtaining the approval from the competent authority advertised 20 posts of Patwaries for which a test was conducted and the Petitioner was placed at serial No. 3 of the selected list of 20 persons. One Sri Laxman Singh was also selected and was placed at serial No. 4. The selected candidates were sent for training in the month of January 1996. In the meantime in the year 1997 Bageshewar, which was a part of District Almora, was formed as a new district. Sri Laxman Singh as well as the Petitioner were appointed after completing training in the District Bageshwar. The Petitioner was appointed as Patwari against the vacancy, which was created because of suspension of one Sri Nain Singh, whereas Sri Laxman Singh was appointed as Patwari against the post of Patwari fallen vacant due to ad-hoc promotion of Sri Ram Dutt Pandey to the post of Supervisor Kanoongo.

Sri Ram Dutt Pandey was later on reverted to the original post of Patwari. Consequently, the D.M., Bageshwar passed an order of termination of Laxman Singh on 21-07-1999, which was challenged by means of writ petition No. 31010 (S/S) 1999 on the ground that in the selected list he was placed at serial No. 4, and his services have been terminated, whereas some persons junior to him have retained in the service by the Collector, Bageshwar. The Allahabad High Court vide its judgment dated 24-04-2000 allowed the writ petition of Sri Laxman Singh and quashed the order dated 21-07-1999 by which Sri Laxman Singh was terminated and the Court in result directed the Respondents to reinstate Sri Laxman Singh.

4. In this matter, the Respondents were directed to file counter affidavit, but they have not filed counter affidavit. The Respondents have not denied the facts narrated above.

5. This case is squarely covered by the aforesaid judgment dated 24-04-2000 passed by the Allahabad High Court. In that case Sri Laxman Singh was at serial No. 4 in the selected list and this case is on the same footing with the case of Sri Laxman Singh, because the Petitioner was at serial No. 3 in the selected list. In the present case the District Magistrate, Bageshwar vide its order dated 16-11-1999 has terminated the services of the Petitioner on the ground that suspension of Sri Nain Singh has been revoked. Since the Petitioner was as serial No. 3 of the selected list of the 20 candidates it would have been appropriate for the district authorities to retain the services of the Petitioner, and if it was required to dispense with the services of any of the selected candidates due to non-availability of the vacancy, the services of junior most should have been terminated.

6. Counsel for the Petitioner has drawn my attention to the fact that the Petitioner has been given fresh appointment by the Commissioner Kumaon Division, Nainital vide its order dated 04-11-2000 and the Petitioner has been posted in the district of Pithoragarh.

7. In view of the aforesaid facts, the impugned order dated 16-11-1999 passed by the District Magistrate, Bageshwar is absolutely against the law and, as such, the same is liable to be quashed.

8. For the reasons stated above, the writ petition is allowed. Order dated 16-11-1999 passed by the Collector, Bageshwar/Respondent No. 1 dismissing the Petitioner from services is quashed. The Petitioner is entitled for all the consequential benefits of his services including entire arrears of salary payable to the Petitioner. The Respondents are directed to pay the arrears of salary to the Petitioner with all consequential benefits within a period of three months from the date of production of a certified copy of this order. No order as to costs.