
(2004) 03 AHC CK 0256

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 31367 of 2000

Bhim Singh

APPELLANT

Vs

District Magistrate/Collector and Additional District Magistrate
(Finance and Revenue)

RESPONDENT

Date of Decision : 23-03-2004

Acts Referred:

Citation : (2004) 5 AWC 4086

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : C.B. Yadav, for the Appellant;

Judgement

Anjani Kumar, J.—Petitioner appeared in written examination conducted by the respondents for the post of Collection Amins and declared successful in the written examination and the petitioner was called for interview and he was declared successful in the final selection and a list whereof was prepared on 3.9.1993. The name of the petitioner was at serial no 31. The said list in all contains the name of 33 persons. These facts are not disputed. The District Magistrate directed all the Dy. District Magistrates to appoint the persons who were duly selected in accordance with the provisions of U.P. Collection Amins Service Rules, 1974, in place of persons who were working as ad hoc Collection Amins. Four persons who were working on ad hoc basis and thirteen others including petitioner preferred writ petition no. 44591 of 1993 in which this Court on 11.5.1994 passed the following interim order:

"Meanwhile in view of the fact that the petitioners were admittedly selected for appointment to the regular cadre of Collection Amin, the respondents shall consider the feasibility of their appointments against the existing vacancies, if any, in respect of which there is no interim order by any Court."

2. It is further alleged by the petitioner that the said order dated 11.5.1994 has not been complied with by the respondents. Thus, petitioners preferred a

contempt petition in which notices have been issued by this Court. In the meantime, 13 persons were appointed by the Additional District Magistrate (Finance and Revenue) under the order of the District Magistrate, Allahabad dated 15.11.94. A copy of this order is annexed as Annexure 5 to the writ petition. These persons who were appointed by order dated 15.11.1994, which was communicated under the order of the Additional District Magistrate (Finance and Revenue), Allahabad dated 16.11.1994, were the same persons who were declared successful in which petitioner's name appeared at serial no. 31. Admittedly since petitioner is not covered within 13 persons, was not appointed. In the meantime, writ petition no. 44591 of 1993 came up for hearing in which petitioner was arrayed as petitioner no. 14 was disposed by this Court vide order dated 9.9.1999. The order dated 9.9.1999 is as under:

"This writ petition has been filed by the petitioner with regard to his grievances. In this regard, he wants to make a fresh representation before respondent no. 3. If such a representation is made by the petitioner within a period of two months from today, the same shall be decided by the respondent no. 3 by a speaking order, in accordance with law within a further period of three months from the date a certified copy of this order is produced before him.

With the aforesaid direction, the writ petition is finally disposed off."

3. Pursuant to the aforesaid direction the petitioner preferred a representation addressed to the District Magistrate, Allahabad which was rejected by the District Magistrate, Allahabad vide his order dated 12.5.2000 on the ground that so far as the petitioners and one more candidate who were regularly selected candidate are concerned, they were appointed against the vacancy mentioned in the order. So far as the petitioner is concerned it is stated that he was appointed against the vacancy of Chandra Bahadur. But the aforesaid decision to appoint the petitioner could not be implemented because these two persons including Chandra Bahadur who were working on ad hoc basis have filed writ petition before this Court challenging the order of Chandra Bahadur and the petitioner by which they were replaced by the petitioner and as such the petitioner could not be appointed because the post against which petitioner was appointed is not vacant because of the interim order in the writ petition filed by Chandra Bahadur. The supplementary affidavits and supplementary counter affidavits have been filed but this fact has not been denied that till date interim order in favour of the Chandra Bahadur in whose place decision to appoint the petitioner was taken is either vacated, or the petition itself is dismissed, the petitioner cannot be appointed. In these circumstances in my opinion, till Chandra Bahadur is continuing as Collection Amin by virtue of the interim order, referred to above, the action of the respondents in not appointing the petitioner cannot be said to be either illegal or unjustified. It is not a case in which juniors of the petitioner have been appointed and petitioner has been ignored.

4. In this view of the matter, in my opinion the petitioner's challenge to the order of the Collector rejecting the representation of the petitioner pursuant to

the interim order passed in writ petition No. 44591 of 1993 does not suffer from any illegality. However, it is directed that if the select list holds good till the interim order in favour of Chandra Bahadur is vacated, needless to say that the petitioner would be entitled for appointment in that vacancy pursuant to his selection, petition disposed.