
(2001) 04 AHC CK 0113

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 1217 of 1992

Birbal Sharma

APPELLANT

Vs

Chief Medical Officer and Others

RESPONDENT

Date of Decision : 30-04-2001

Acts Referred:

Penal Code, 1860 (IPC) — Section 420, 471, 486

Citation : (2001) 2 UPLBEC 1745

Hon'ble Judges : V.M. Sahai, J

Bench : Single Bench

Advocate : Mohit Kumar, holding brief of Ajit Kumar, for the Appellant;

Final Decision : Allowed

Judgement

V.M. Sahai, J.—Heard Shri Mohit Kumar holding brief of Shri Ajit Kumar for the petitioner and Standing Counsel appearing for the respondents.

2. The petitioner has challenged the termination order dated 11.10.1991 passed by respondent No. 1 by which his service has been terminated on the ground that he was a temporary employee and his services are no longer required.

3. In the counter-affidavit filed by the respondents in paragraph 4 it has clearly been stated that petitioner's services have been terminated after completing the departmental enquiry. The relevant part of paragraph 4 of the counter-affidavit is extracted below:

"That the contents of paragraph 3 of the writ petition are denied as stated. It is submitted that the termination order passed after completing the departmental enquiry. It is also submitted that the First Information Report u/s 420/486/471, IPC was also lodged against the petitioner after due departmental enquiry and then the termination order was passed by the answering respondent against the petitioner."

4. It is admitted by the respondents that petitioner's services have been

terminated after completing departmental enquiry. The respondents have not produced the proceedings of departmental enquiry nor any material has been filed alongwith the counter-affidavit to show that they have given opportunity of hearing to the petitioner before passing the impugned termination order. If in the departmental enquiry, opportunity of hearing was not given to the petitioner, the impugned order of termination based on departmental enquiry is violative of principles of natural justice. In paragraph 5 of the writ petition it has been stated that petitioner's services have been terminated without issuing show-cause notice to him and without affording any opportunity to him. This fact has not been disputed in the counter-affidavit, therefore, the impugned termination order passed by respondent No. 1 cannot be uphold.

5. In the result this petition succeeds and is allowed. The termination order dated 11.10.1991 passed by respondent No. 1 Annexure 1 to the writ petition is quashed. The respondents are directed to reinstate the petitioner in service with all consequential benefits of service within a period of one month from the date a certified copy of this order is produced before respondent No. 1.

6. Parties shall bear their own costs.