
(2001) 07 AHC CK 0011

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 25404 of 2001

Brijesh Kumar

APPELLANT

Vs

Collector/District Magistrate and Others

RESPONDENT

Date of Decision : 13-07-2001

Acts Referred:

Citation : (2001) 3 UPLBEC 2544

Hon'ble Judges : A.K. Yog, J

Bench : Single Bench

Final Decision : Allowed

Judgement

A.K. Yog, J.—Heard learned Counsel for the Petitioner and the learned Standing Counsel appearing on behalf of Respondent Nos. 1, 2 and 3.

Petition is being decided finally at the admission stage as contemplated under Rules of Court without calling for counter-affidavit, in the facts and circumstances of the case.

2. Petitioner is aggrieved against the order dated 7.7.2001 (Annexure-5 to the Writ Petition) whereby his services as Seasonal Collection Amin have been determined by the Tehsildar, Karhal (Mainpuri) with the effect from the date of the order. The said order shows that petitioner was appointed/continued as Seasonal Collection Amin w.e.f. 19th June. 2001 under High Court order dated 25.1.2001 (Annexure-2 to the Writ Petition).

3. The impugned order does not disclose the period till which he was assigned target of particular collection and the actual period available to him for achieving the said target. Apart from the above, it may be noted that mere non-achieving of target for collection, bereft of other relevant facts cannot be the criterion for achieving efficiency as observed by this Court in the case of Dinesh Kumar Asthana Vs. Collector, Azamgarh/Deputy Collector, Tahsil Phulpur, district Azamgarh and others, . Relevant para 8 of the case of. Dinesh Asthana (supra) reads :-

"Necessary pleadings on this aspect are wanting Even the counter-affidavit does not disclose that no person in the list prepared in the year 1993 has been regularised whose recovery was below the prescribed limit or that all the persons above such regularized persons were inefficient and/or had poor efficiency on comparison. This Court has no means to find out whether the recovery in a particular year with respect to the petitioner was low for reason other than this own efficiency. It is very relevant circumstance while considering efficiency of Seasonal Collection Amin. For example, recovery is not possible beyond a certain limit for various factors and reasons like-orders from Court, the total extent of recovery to be made in one's area and/or whether Government itself kept recovery in abeyance due to famine, flood, drought etc., These will be relevant consideration to be taken into account and a Seasonal Collection Amin, being put to sufferance for reasons beyond his control, cannot be non-suited for low recovery as it does not reflect at all upon his efficiency."

4. In view of the above, impugned order dated 7.7.2001 (Annexure-5 to the Writ Petition) cannot be sustained and liable to be quashed.

5. Consequently, impugned order dated 7.7.2001 is quashed leaving it open to the concerned competent authority to consider the matter afresh in light of the observations made in the case of Dinesh Kumar Asthana (supra).

6. Subject to the observations and directions made above, petition stands allowed.