
(1990) 05 AHC CK 0062
In the Allahabad High Court
Case No : Civil Misc. Writ No. 11569 of 1989

Buddh Prakash Pandey

APPELLANT

Vs

The State of U.P. and Others

RESPONDENT

Date of Decision : 23-05-1990

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1990) 05 AHC CK 0062

Hon'ble Judges : R.A. Sharma, J;K.P. Singh, J

Bench : Division Bench

Advocate : Arvind Kumar Tripathi, for the Appellant;

Final Decision : Allowed

Judgement

K.P. Singh, J.—By means of this writ petition, the petitioner has prayed for quashing the termination order dated 9.6.1989 contained in annexure "3" attached with the writ petition.

2. The main contention raised on behalf of the petitioner before us is that the services of the petitioner have been illegally terminated while juniors to the petitioners have been retained in service. Relevant allegations have been made in paragraph 6 of the writ petition.

3. In counter affidavit vide paragraph 7 the contents of paragraph 6 of the writ petition have been replied as below:

"7. That in reply to the allegation of paragraph 6 of the writ petition, it is stated that the petitioner was working as junior most clerk in training and visit scheme. The person junior to the petitioner were not working in the section in which the petitioner was working in the General section. However, services of Sri Awadhesh Kumar Singh who was junior to the petitioner has also been now terminated on 7.12.89, Sri Ramadhar Yadav who is also junior to the petitioner was given promotion from class IV to Class III by Joint Director Agriculture (Ext)Varanasi."

In paragraph 7 of the rejoinder affidavit the petitioner has made the following allegations:

"7. That the averments as made in para 7 of the counter affidavit are incorrect, hence not admitted and the averments made in para 6 of the writ petitioner are reiterated. It is further made clear that earlier the petitioner

was also working in the General Section and from there he was transferred to the Department of Training and visit scheme. All the posts are under the Director Agriculture and are the same posts. It is also made clear that purposely the services of Mr.Awadhesh Kumar Singh was terminated in the month of December, 89 during the pendency of the present writ petition and still other junior persons are continuing in the service on the post of junior clerk."

4. After hearing learned counsel for the parties, we are not satisfied with the submission of the learned counsel for the opposite parties and, in our opinion, there is sufficient force in the contention raised on behalf of the petitioner. It appears that the authorities have acted in clear contravention of Arts. 14 & 16 of the Constitution in terminating the services of the petitioner through Annexure" 3" attached with the writ petition in the facts and circumstances of the present case.

5. It is not worthy that the juniors to the petitioner have been retained in service and the suggestions on behalf of the opposite parties that the petitioner was junior most clerk in the Training and Visit scheme and therefore his services were terminated, did not appeal to us. The petitioner was originally appointed in the General section and from there he was transferred to training and visit scheme and persons appointed junior to the petitioner in General Section have been retained. Therefore, we think that the opposite parties have acted unreasonable and arbitrarily in terminating the services of the petitioner. Admittedly, Sri Awadhesh Kumar Singh was junior to the petitioner whose services have been terminated in December, 1989, does indicated that the authorities have not acted fairly and reasonably in terminating the services of the petitioner on 9.6.1989.

6. In Jarnail Singh and others v. State of Punjab and others (1986 (2) SLR 278) their Lordships of the Supreme Court have indicated in paragraph 33 of their judgment as below: -

".....It is pertinent to refer here to the decision rendered by this Court in Sughar Singh Ycase where it had been held that the order of reversion reverting the respondent from his officiating appointment to the post of platoon Commander to the post of permanent Head constable while retraining 200 other Head constables who were junior to him in the officiating higher posts of platoon Commanders was discriminatory and arbitrary being in contravention of the Articles 14 and 16 of the Constitution."

7. In paragraph 35 of the above mentioned ruling the following has also been observed:

"In the instant case, ad hoc services of the appellants have been arbitrarily terminated as no longer required while the respondents have retained other surveyors who are juniors to the appellants. Therefore on this ground also the impugned order of termination of the services of the appellants are illegal and bad being in contravention of the fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India."

8. In the light of the above observation, when we view the facts of the present case we have no hesitation in arriving at the conclusion that the termination of the petitioner's services vide annexure "3" attached with the writ petition is clearly in contravention of the mandate enshrined in Arts. 14 and 16 of the Constitution. Therefore, the termination order deserves to be quashed.

Consequently, the writ petition succeeds and is allowed and the impugned order of termination of the services of the petitioner contained in Annexure "3" dated 9.6.1989 is hereby quashed. The petitioner shall be reinstated in service with all consequential reliefs. No order as to costs.