
(2006) 03 MP CK 0119
In the Madhya Pradesh High Court
Case No : Writ Petition No. 1375 of 2003

Dashrath Patil

APPELLANT

Vs

Western Coal Field Limited

RESPONDENT

Date of Decision : 14-03-2006

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2006) 03 MP CK 0119

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

Bench : Single Bench

Advocate : S.K. Mishra and Faridi, for the Appellant; Anoop Nair, for the Respondent

Final Decision : Allowed

Judgement

A.K. Shrivastava, J.—By this petition under Articles 226 and 227 of the Constitution of India the petitioner is challenging the pregnability of impugned order Annexure P/12 dated 17.1.2003 passed by respondent No. 2 dismissing the petitioner from his service.

2. The petitioner was subjected to a departmental enquiry and the charge which was framed against him was in regard to unauthorized occupation of company quarter which was allotted to some other employee, namely, Mangu. The charge was found to be proved, as a result of which the petitioner was punished by the order of dismissal from service (Annexure P/2).

3. It has been contended by learned Counsel for the petitioner that a notice was issued to the petitioner to vacate the company quarter against which he filed a writ petition before this Court which was registered as Miscellaneous Petition No. 3824/1992 (Dashrath Patil and Ors. v. General Manager, Shobapur Mines, Sub Area Western Coal Fields and Anr.). The division bench of this Court on 16.11.1992 passed an interim order directing respondents not to dispossess the petitioner No. 1 i.e. present petitioner from the quarter in his occupation until

further orders. By inviting my attention to averments made in the petition in para 3 it has been mentioned that this petition was dismissed on account of want of prosecution on 25.6.2002. thus, the stay order was continued for 10 years. It has been contended by learned Counsel that on account of stay order he was possessing the quarter and thereafter the departmental enquiry was initiated. It has been further contended by learned Counsel that without paying any heed to annexure P/3 which is a stay order of the division bench of this Court dated 16.11.1992 the impugned punishment order Annexure P/12 has been issued. Hence it has been prayed that the impugned order be quashed.

4. Per contra Shri Nair, learned Counsel for respondent argued in support of the impugned order and has submitted that since the petitioner was occupying the company quarter unauthorizedly, therefore validly he has been dismissed from his service on account of misconduct which has been found to be proved in the departmental enquiry. Thus, according to learned Counsel this petition has no merit and the same be dismissed.

5. After having heard learned Counsel for the parties I am of the view that this petition deserves to be allowed.

6. On going through Annexure P/3 dated 16.1.992 passed by the division bench of this Court, it is gathered that the division bench of this Court passed an interim order in respect to dispossession of the petitioner. This petition was filed against the show cause notice of vacating the quarter. No doubt the said petition was dismissed in default as stated by learned Counsel for the petitioner on 25.6.2002, but, during these 10 years the petitioner was occupying the quarter under the umbrella of the interim order passed by the division bench. Thus, there appears to be an explanation of possessing the impugned quarter of the respondent for 10 years.

7. In this view of the matter, for the present impugned order Annexure P/2 dated 17.1.2003 is hereby quashed. The petitioner is hereby directed to place copy of the interim order passed by this Court Annexure P/3 dated 16.11.1992 and the order of this Court dated 25.6.2002 to respondent No. 2 on or before 30th April, 2006. Respondent No. 2 therefore may pass fresh order in accordance with law. While deciding the matter of the petitioner, respondent No. 2 may consider this fact sympathetically that the petitioner was occupying the quarter under the interim arrangement made by division bench of this Court as there was a stay order in favour of the petitioner. The respondents are directed to reinstate the petitioner forthwith. However, the question of payment of the back wages would be decided by respondent No. 2 at the time of passing the fresh order.

8. To the extent indicated hereinabove, this petition is allowed with no order as to costs.