
(2009) 02 AHC CK 0174

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 5121 of 1985

Dayaram Katiyar

APPELLANT

Vs

District Magistrate, Kanpur Dehat and others

RESPONDENT

Date of Decision : 13-02-2009

Acts Referred:

Citation : (2009) 121 FLR 497

Hon'ble Judges : S.U. Khan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.U. Khan, J.—This writ petition is directed against order dated 2.4.1985 passed by Tehsildar Bilhaur, District Kanpur Dehat terminating the services of the Petitioner, who was collection Amin.

2. It is very unfortunate that this writ petition was dismissed in default on 10.9.1997 still not only salary was continued to be paid to the Petitioner but meanwhile he was granted selection grade and time pay-scale also on 23.1.2007. I am repeatedly directing the learned Chief Standing Counsel to seek details from the authorities at the District level regarding those employees, who are getting salary under interim orders of this Court, which were passed long before and verify as to whether petitions are pending or not. Let the exercise be done on priority basis and war-footing so that payment of those employees under interim orders of this Court may be stopped, whose writ petitions have already been dismissed.

3. As far as facts of the instant case are concerned, Petitioner was appointed as Collection Amin on 4.1.1983. Thereafter, on 30.12.1983, services were regularised under orders of D.M. Kanpur Dehat. Through the impugned order dated 2.4.1985, services were terminated on the ground that Petitioner had been appointed at the place of Lakshmi Shanker Singh, who had been suspended and as suspension of Lakshmi Shanker had been revoked, hence Petitioner's services

had come to an end automatically.

4. In the appointment letter, which deals with the appointment of three or four persons in a chain, there is no such mention that Petitioner was appointed at the place of Lakshmi Shanker Singh. On the contrary, in the said order, it is mentioned that Petitioner was appointed due to transfer of Sri Ramesh Chandra Sharma. Through the said letter, six Amins were adjusted/transferred. There is no mention of Lakshmi Shanker Singh in the said order. Accordingly, impugned order is erroneous in law as it is based on wrong assumption of facts, hence it is set aside.

5. In this writ petition, an interim order was granted on 6.5.1985 by virtue of which Petitioner continued to work. It has been stated in the supplementary affidavit dated 9.12.2008 that Petitioner was confirmed on 6.7.1989, time scale from 10.1.1991 and promotional scale was also granted through order dated 23.1.2007. Copies of the said orders have been annexed. However, it is clarified that if for any period after the dismissal of the writ petition in default on 10.9.1997, till date, salary was not paid to the Petitioner, then the same shall not be payable.

Accordingly, writ petition is allowed.