
(1994) 01 AHC CK 0032

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 29088 of 1991

Dhannu Lal

APPELLANT

Vs

Vice-Chancellor, Allahabad University and Another

RESPONDENT

Date of Decision : 07-01-1994

Acts Referred:

Citation : (1994) 1 AWC 539

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : P.S. Baghel, for the Appellant;

Final Decision : Dismissed

Judgement

M. Katju, J.—This writ petition has been filed challenging the order of terminating the service of the Petitioner. I have heard the learned counsel for the parties and am disposing of the writ petition finally.

2. The Petitioner was appointed on daily wage basis on 9-5-89 as peon in the Library Department, Allahabad University, Allahabad and he worked till 21-12-90 as stated in para 5 of the writ petition but thereafter he was not permitted to sign the attendance register.

3. In para 6 it has been alleged that the Librarian in his letter dated 13-4-91 addressed to the Assistant Registrar stated that on the verbal instructions of the Registrar the Petitioner had not been allowed to sign the attendance register with effect from 21-12-90. A true copy of the letter dated 13-4-93 is filed as annexure 4 to the writ petition. The Petitioner has submitted that he has completed 240 days of the continuous service and as such he is entitled for regularisation of his service. He also alleged in para 12 that his junior is continuing his service. The Petitioner made a representation to the Vice Chancellor but no order having been passed thereon, he has filed this writ petition.

4. In the counter affidavit it is stated in para 3 that the Librarian of the University

is not the Appointing Authority, and hence the petitioner's appointment was wholly without jurisdiction. In para 5 it is alleged that the Vice Chancellor in order to avoid any complication regarding the payment, directed the Deputy Registrar, to make payment to the Petitioner from 9-5-89 to 31-1-90 on humanitarian ground. In paras 6 and 7 to the counter affidavit it is alleged that the Petitioner worked only up to 31-1-90 and he is not entitled to payment for the period, thereafter. In para 8 it is alleged that the petitioner's appointment was not made by the proper authority and he was paid the wages on humanitarian grounds. He was working only on the direction of the Librarian and no formal order of appointment was given to him. It is denied that the Petitioner worked for 240 days continuously. It is also denied that the Vice Chancellor gave any assurance for payment of his salary from 1-2-90 to 21-12-90.

5. In my opinion, this petition is liable to be dismissed on the ground that the Petitioner was never appointed by the proper authority. The learned counsel for the Petitioner has quoted Statute 2.06 of the First Statute of the Allahabad University in para 4 of the rejoinder affidavit and on the basis of the same has urged that the Librarian is the appointing authority. Statute 2.06 only says that the Registrar has disciplinary control over all employees of the University other than officers, teachers, the Librarian and some other employees. The provision, therefore, does not say that the Librarian is the appointing authority of the peon working under him.

6. The question, therefore, arises as to who is the appointing authority of the Petitioner, in this connection the relevant provision is Chapter XVI of the Allahabad University Ordinances which deals with Control of Administrative staff. Para 2 of the Chapter XVI states as follows:

2. The Vice-Chancellor may, by order in writing and signed by him, delegate to the Registrar or to the Dean of a Faculty or the Head of a department or the Warden or Superintendent of a Hostel the power to appoint, suspend, dismiss or punish any member of the menial establishment working under his orders. Any exercise of powers so conferred under this Ordinance need not be reported to the Executive Council; but any person aggrieved thereby may appeal to the Vice-Chancellor or to the Executive Council.

Thus it is either the Vice-Chancellor or the authority mentioned in the aforesaid para 2 who has been delegated the power of appointment by the vice Chancellor who is the appointing authority of a peon. The Librarian if not one of the authorities mentioned in para 2 and hence there is no valid appointment of the Petitioner. In the circumstances the writ petition is dismissed but I direct that the Petitioner shall be paid his salary for the period for which he has actually worked within two months of production of, certified copy of this judgment before the Registrar.

7. The writ petition is dismissed.