
(2007) 07 AHC CK 0181
In the Allahabad High Court

Dinesh Chandra Agnihotri

APPELLANT

Vs

District Inspector of School and Others

RESPONDENT

Date of Decision : 11-07-2007

Acts Referred:

Citation : (2008) 5 AWC 4298 : (2007) 115 FLR 433

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vineet Saran, J.—The petitioner was appointed as Lab Boy on 1.7.1989 in the college of the Respondent No. 3. He continued to work on such post. However sometimes in the year 1998, without there being any order passed against him, he was not permitted to work and was also not paid his salary. The petitioner thus filed this writ petition initially with the prayer for a direction in the nature of mandamus commanding the respondents to permit him to work as Lab Boy in the respondent-institution and pay him his regular salary, including arrears, in accordance with law. Along with the counter affidavit the respondent-institution filed a copy of the order of suspension dated 26.3.1998 as well as copy of the charge sheet dated 6.4.1998, copy of the enquiry report dated 29.4.1998 and copy of the order dated 22.7.1998 whereby the services of the petitioner had been terminated. Thereafter by means of amendment, the petitioner has challenged the aforesaid orders.

2. I have heard learned Counsel for the parties and have perused the record.

3. The specific case of the petitioner is that he was never served with any order of suspension or the charge sheet nor was he ever supplied copy of the enquiry report or the order of termination. According to the petitioner, the entire proceedings were conducted ex parte. It has further been contended that under Chapter XXI of the Statutes of the Kanpur University, the order of termination cannot be made effective till the approval is accorded by the District Inspector of

School and since the same has not been done in the present case, the order of termination would be bad in law.

4. In reply, learned Counsel for the respondents has submitted that even the appointment of the petitioner was not approved by the District Inspector of School and as such Chapter XXI of the Statutes of Kanpur University would not be applicable to the case of the petitioner.

5. It is not disputed that the petitioner has worked and was paid his salary from 1989 to 1998. At this late stage the respondents cannot come up with the plea that the appointment of the petitioner was not duly approved by the District Inspector of School. In any case, such is not a ground taken for terminating the services of the petitioner. There is nothing on record to show that any notice prior to the termination of the services of the petitioner was ever served on him. As such, in my view, the entire proceedings conducted against the petitioner were ex parte, and as such, would be liable to be quashed, being violative of the principles of natural justice.

6. Even if it is presumed that the petitioner had notice of the said proceedings, then too a perusal of the charge sheet would go to show that the same is absolutely vague. General charges have been levelled against the petitioner without specifying any details. In all there are ten charges. When asked to explain, the learned Counsel for the respondents stated that charges No. 4- and 7 are specific to which the petitioner could give his reply. Charge No. 4 is as follows:

Aap bina suchana mahavidyalaya se anupasthit rahatey hain tatha chhuiti ke samay bhi prayah anupasthit rahatey hain

The said charge is vague inasmuch as no specific instance of the petitioner remaining absent without leave has been given, to which the petitioner could be expected to reply. Charge No. 7 is as follows:

Pariksha kaal me aap kamron me anadhikrit roop se ghus kar paise lekar nakal karatey hain, Pariksha me vyavadhan dalney ka prayas kartey hain.

With regard to this charge also there is no specific date of the instance on which the petitioner may have committed such deed. The same is also vague to which no specific reply could be given by the petitioner. All other charges are also equally vague.

7. The further submission of the petitioner also has force that the first charge relates to the petitioner having misbehaved with one Dr. Mukut Tiwari and that the enquiry officer also was Dr. Mukut Tiwari himself who submitted the enquiry report dated 29.4.1998. A perusal of the said enquiry report goes to show that all the charges were said to have been proved because no reply had been given by the petitioner. In fact it is only the conclusion which has been recorded and no reasons have been given for arriving at such findings, holding that the petitioner was guilty of the charges. Relying on such enquiry report, the impugned order

dated 22.7.1998 has been passed. As such on merits also, even if it is presumed that the petitioner had notice, then too the charge sheet, as well as the enquiry report do not inspire confidence about its fairness and as such the impugned order of termination passed on the basis of such proceeding cannot be justified in law. Further the submission of the learned Counsel for the petitioner has force that without the termination order having been duly approved by the District Inspector of School, the same would not be effective as has been provided under Chapter XXI of the Statutes of the Kanpur University;

8. Accordingly, for the foregoing reasons, the impugned order dated 22.7.1998 deserves to be quashed.

9. This writ petition stands allowed. The impugned order dated 22.7.1998 is quashed. The petitioner shall be entitled to all consequential benefits, including payment of his salary. However, it shall be open to the respondents to take suitable action against the petitioner after conducting a proper enquiry, in accordance with law.

10. No order as to cost.