
(2002) 01 AHC CK 0175
In the Allahabad High Court
Case No : C.M.W.P. No. 38548 of 1997

H.N. Singh

APPELLANT

Vs

Chairman, U.P. State Textile Corporation Ltd. and Others

RESPONDENT

Date of Decision : 18-01-2002

Acts Referred:

Citation : (2002) 1 AWC 810 : (2002) 95 FLR 355 : (2002) 1 UPLBEC 754

Hon'ble Judges : S.K. Singh, J;M. Katju, J

Bench : Division Bench

Advocate : Vijay Sinha, for the Appellant; Krishna Murari, for the Respondent

Final Decision : Dismissed

Judgement

M. Katju, J.—This writ petition has been filed against the resolution of the Board of Directors of U.P. State Textile Corporation Ltd. dated 11.7.1997, Annexure-14 to the petition by which the post of Joint Managing Director in the Corporation has been abolished. The petitioner has also prayed for a certiorari to quash the impugned order dated 15.7.1997 dispensing with the services of the petitioner as Joint Managing Director.

2. We have heard learned counsel for the parties. The Corporation is wholly owned and managed by the State Government and it is also registered under the Indian Companies Act. It is managed and controlled by a Board of Directors of which the Chairman and Managing Director is an I.A.S. Officer. The corporation owns several spinning mills in the State.

3. The petitioner was selected and appointed as Joint Managing Director of the Corporation vide Annexure-4 to the writ petition. In para 15 of the petition it is alleged that the official lobby did not relish and developed cold feet in permitting participation of a technical hand in the Board and hence confirmation order was not issued to him. On the other hand a letter dated 27.11.1992 was issued to the petitioner converting the tenure of his appointment from 2 years to 3 years. A perusal of the letter dated 27.11.1992 shows that the appointment was for 3

years but it could be renewed by the Board for a period not exceeding 3 years at a time but not beyond the age of superannuation, i.e., 58 years. Clause 2 (b) of this letter also states that the service is terminable without assigning reasons by one month notice or notice pay. By letter dated 15.1.1993 the petitioner's appointment was renewed for a further period of 3 years vide Annexure-6 and by resolution dated 28.1.1996 it was further extended by 3 years w.e.f. 1.1.1996, i.e., till 31.12.1998 vide Annexure-7. By another resolution dated 29.5.1997 it was decided that the petitioner should be given appointment on the same terms and conditions as his predecessor Sri V.K. Jain vide Annexure-10.

4. Thereafter an order dated 23.6.1997 was passed by the Chairman-cum-Managing Director vide Annexure-11 to the writ petition. In this letter, it is stated that it is imperative to modify the petitioner's appointment which was issued inadvertently in contravention of the Articles of Association. This letter dated 23.6.1997 states that the petitioner is appointed on 1.1.1990 initially for 3 years which can be renewed for 3 years at a time by the Board. It is alleged that this was an arbitrary act.

5. Ultimately the impugned resolution dated 11.7.1997 was passed abolishing the post of Joint Managing -Director which was communicated to the petitioner by letter dated 15.7.1997 vide Annexure-15. By this letter dated 15.7.1997, the petitioner was informed that since his post has been abolished his service is dispensed with, with immediate effect. Aggrieved, this writ petition has been filed.

6. Learned counsel for the petitioner submitted that this action is mala Fide as it was done at the behest of the I.A.S. lobby, which is hostile to the technical people.

7. A counter-affidavit has been filed by the respondents. In paragraph 4 it is stated that the post of Joint Managing Director was abolished in accordance with the resolution of the Board in its meeting dated 11.7.1997. The said resolution has not been challenged and hence this petition is not maintainable. In para 15 of the counter-affidavit it is stated that the petitioner has made wild allegations against the official lobby without giving specific details. It is further stated that since the petitioner was appointed as a Director hence in view of the Companies Act and the Articles of Association of the Company his tenure was restricted to 3 years at a time. The petitioner's appointment order was also modified by the order 27.11.1992 and the petitioner never challenged the change in service conditions and accepted the same. In para 29 it is stated that the Board of Directors of the Corporation has full power to abolish the post and there was no mala fide. In para 37 it is stated that the decision to abolish various posts including the one held by the petitioner was taken in accordance with the directions of the B.I.F.R. to reduce the financial burden of the company.

8. In para 71 of the counter-affidavit it is stated that the company has become sick and the matter is pending before the B.I.F.R.

9. We are of the opinion that the decision to abolish the post of Joint Managing

Director is in the sole discretion of the Board of Directors of the Corporation. We also do not find any mala fide in the action of the respondents. It is well-settled that this Court cannot interfere with the decision to abolish a post. Such decision is taken on various circumstances and relevant factors including the financial position and this Court cannot interfere in such a matter. When a post is abolished, the service of the incumbent automatically comes to an end, and this is not punitive.

10. The writ petition is, therefore, dismissed.