
(1964) 11 P&H CK 0028
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1571 of 1963

Jai Dayal

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 24-11-1964

Acts Referred:

Constitution of India, 1950 — Article 226, 227, 311
Electricity (Supply) Act, 1948 — Section 12

Citation : AIR 1965 P&H 316 : (1965) 1 ILR (P&H) 715

Hon'ble Judges : S.S. Dulat, J; P.C. Pandit, J

Bench : Division Bench

Judgement

[1] In this petition under Arts 226 and 227 of the Constitution the petitioner challenges the legality of an order dated the 24th of July, 1963, by which he was reverted from the officiating post of Line Superintendent to his substantive post of Substation Attendant, and the ground taken in the petition is that this order was made in violation of Art. 311. of the Constitution.

[2] The petition was founded on the allegations that the petitioner who had joined the service of the Punjab State in 1954 was in November 1962 transferred to the Punjab State Electricity Board but remained all the same in the service of the State and the order made subsequently reverting him from the officiating post of Line Superintendent to the post of Sub-station Attendant was a punishment which could not have been imposed without any show-cause notice and enquiry contemplated by Art. 311 of the constitution. It turns out however that the facts are not true because the return shows that the petitioner's services were never transferred by the State Government to the State Electricity Board and what actually Board having been constituted by a statute the post held by the petitioner in the service of the State became unnecessary and that post was abolished and the petitioner's services under the State thus came to an end. The petitioner was however, allowed to apply to the State Electricity Board for fresh employment and the Board took the petitioner into its own services.

This is now admitted by Mr. Saini so that it is now impossible for him to maintain that on the date of the disputed order the petitioner was in any sense in the services of the State. The main foundation of the petitioner's case thus disappears as it is obvious that Art. 311 of the Constitution the violation of which is relied upon by the petitioner has nothing to do with this case. Mr. Saini in the circumstances urges that the State Electricity Board is in fact a Department of the Government of Punjab and the petitioner being in the service of the Board should be deemed to be in the services of the State. To support this submission Mr. Saini points to certain provisions of the Electricity (Supply) Act, 1948, under which the State is given certain powers in respect of the State Electricity Board.

Those provisions however do not affect the legal entity of the Board set up by the Act, for S. 12 clearly says that the Board be a body corporate having perpetual succession, with power to acquire and hold property and capable of suing and being sued. It is obvious, therefore, that the State Electricity Board is a legal entity entirely separate from the State and though the State Government has certain powers the legal entity set up by the statute. It is clear, therefore, that legally speaking the Board has a separate existence and it is impossible to equate it with a Department of the State and, to say that the petitioner being in the service of the Electricity Board is in law in the service of the State by Art. 311 of the Constitution and since the violation of that Article is the grievance raised in the petition it is impossible to afford any relief to the petitioner in these proceedings. The petition thus fails and is dismissed. In the circumstances however the parties are left to bear their own cost.

[3] Petition dismissed.