
(2009) 08 MAD CK 0187

In the Madras High Court

Case No : Writ Petition No. 12009 of 2009 and M.P. No. 1 of 2009

K. Maruthamuthu

APPELLANT

Vs

The District Collector

RESPONDENT

Date of Decision : 04-08-2009

Acts Referred:

Constitution of India, 1950 — Article 311

Citation : (2009) 08 MAD CK 0187

Hon'ble Judges : K.N. Basha, J

Bench : Single Bench

Advocate : S. Saravana Kumar, for the Appellant; P. Muthukumar, Government Advocate, for the Respondent

Judgement

K.N. Basha, J.—Mr. P. Muthukumar, Learned Government Advocate takes notice for the respondent. By mutual consent of both the learned Counsel for the petitioner and learned Government Advocate, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner has come forward with the present petition seeking for the relief of quashing the proceedings of the respondent dated 4.2.2009 bearing reference No. Na.Ka.A3/20925/2007 as being illegal, arbitrary, vindictive and in violation of the Principles of Natural Justice and consequently directing the respondent to reinstate the petitioner back in service with backwages, continuity of service with due seniority and all other consequential benefits.

3. Mr. S. Saravana Kumar, learned Counsel appearing for the petitioner vehemently contended that the petitioner was working as a Junior Assistant on temporary basis and has been terminated by the impugned order without conducting any enquiry and such an impugned order of termination without conducting any enquiry is liable to be quashed. The learned Counsel for the petitioner also placed reliance on the decision of the Hon''ble Supreme Court in Nar Singh Pal Vs. Union of India and Others, .

4. Heard the learned Government Advocate on the submissions of the learned Counsel for the petitioner.

5. I have carefully considered the submissions made by the learned Counsel on both sides and perused the impugned order dated 4.2.2009 in proceedings No. Na.Ka.A3/20925/2007.

6. The fact remains that the petitioner is working as a temporary Junior Assistant having been appointed with effect from 7.7.2003. A perusal of the impugned order dated 4.2.2009 passed by the respondent herein reveals that before passing the impugned order of termination, the respondent herein has not conducted any enquiry in the manner known to law. It is pertinent to note the decision of the Hon''ble Apex Court reported in Nar Singh Pal Vs. Union of India and Others, . wherein it was held that

The appellant although a casual labour, had acquired temporary status. Once an employee attains the "temporary" status, he becomes entitled to certain benefits one of which is that he becomes entitled to the constitutional protection envisaged by Article 311 of the Constitution and other articles dealing with services under the Union of India. The services were terminated on account of the allegation of assault made against the appellant. The order of termination in the instant case, cannot be treated to be a simple order of retrenchment. It was an order passed by way of punishment and, therefore, was an order of dismissal which, having been passed on the basis of preliminary inquiry and without holding a regular departmental inquiry, cannot be sustained.

The above principle laid down by the Hon''ble Supreme Court is applicable to the instant case as in the instant case also the petitioner is a temporary Junior Assistant terminated without conducting any enquiry. It is seen that in the decision cited Supra, the Hon''ble Apex Court has held that the petitioner in that case was terminated after holding preliminary enquiry without conducting any departmental enquiry and as such the order is unsustainable in law. But, as far as the instant case is concerned, the respondent herein has not conducted any enquiry in the manner known to law much less any preliminary enquiry. Therefore this Court is constrained to quash the impugned order dated 4.2.2009 passed by the respondent herein in his proceedings Na.Ka.A3/20925/2007. Consequently this Court is constrained to direct the respondent herein to reinstate the petitioner as temporary Junior Assistant with backwages within a period of four (4) weeks from the date of receipt of a copy of the order of this Court. It is also made clear that it is open to the respondent to conduct fresh enquiry in the manner known to law if the respondent desires so.

7. With this direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.