
(2001) 07 P&H CK 0168
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4608 of 2000

Kashmiri Lal

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 16-07-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2001) 07 P&H CK 0168

Hon'ble Judges : K.S. Kumaran, J;J.S. Khehar, J

Bench : Division Bench

Advocate : Mr. Ranjit Sharma, for the Appellant; S.K. Sharma, D.A.G. Punjab and Mr. R.L. Gupta, for the Respondent

Final Decision : Allowed

Judgement

J.S. Khehar, J.—The petitioner's father Dina Nath was inducted into the service of the Improvement Trust, Amritsar, against the post of Peon on 23.1.1960. He died in harness on 22.4.1976. On 20.12.1993, the petitioner submitted an application for appointment on compassionate grounds after he had attained the age of majority. On 7.12.1995, the Chairman, Improvement Trust, Amritsar, addressed a communication to the Director, Local Bodies, Punjab, informing him that a post of Chowkidar was lying vacant in the office of the Improvement Trust. The said Director was also informed that the Assistant Controller Audit, whose opinion had been obtained in connection with the grant of appointment on compassionate grounds to the petitioner, had opined that special sanction should be obtained from Local Bodies Department. In the background of the aforesaid opinion, the Chairman, Improvement Trust, Amritsar, sought the sanction of the Director, Local Bodies, Punjab, for grant of employment to the petitioner on compassionate grounds against the post of Chowkidar.

2. It would be pertinent to mention that along with the written statement filed by respondents Nos. 1 and 2, a memorandum dated 12.4.1996 was appended as Annexure R. 1. The aforesaid memorandum had been addressed by the

Directorate, Local Govt., Punjab, to the Chairman, Improvement Trust, Amritsar. An extract of the aforesaid memorandum is reproduced here-under :-

"Your kind attention is drawn towards instructions issued vide Memo No. EA1-DLG-90/29814-848 dated 3.7.90 and request you that permission of this department is not required in such cases and Local Bodies can make appointments under priority category at their own level. Therefore take necessary action as per rules/instructions at their own level." A perusal of the aforesaid memorandum addressed by the Directorate, Local Govt., Punjab, leaves no doubt about the fact that for appointment on compassionate grounds permission of the department is not required and further that such appointment can be made by the Improvement Trust at its own level.

3. The Chairman, Improvement Trust, Amritsar, appointed the petitioner as a Chowkidar on 22.10.1996 on compassionate grounds in place of his father Dina Nath. His appointment was in the scale of 750-1410 with an initial start of Rs. 770/-. The petitioner continued to discharge his duties consequent upon his appointment as Chowkidar till 27.4.1998 when his services were stated to have been terminated. The validity of the termination of the service of the petitioner is the subject matter of consideration in the instant petition.

4. The case set up on behalf of the Improvement Trust, Amritsar, is that the appointment order issued in favour of the petitioner was in compliance with the instructions issued by the State Government regulating appointments on compassionate ground on account of death of an employee while in harness. Be that as it may, it is not disputed by the learned counsel for the respondents that by the aforesaid order of termination, civil rights of the petitioner have been affected inasmuch as his right to continue as a Chowkidar flowing out of the appointment letter dated 22.10.1996 has been revoked. It is now well settled proposition of law that before adversely affecting the civil rights of a citizen, it is imperative to seek his explanation in terms of the rules of natural justice. Neither was any notice issued to the petitioner, nor was his explanation sought. It is, therefore, evident that he has been terminated from the service of the Improvement Trust, Amritsar, in violation of the rules of natural justice.

5. In the aforesaid view of the matter, the order of the petitioner's termination from service is clearly unsustainable in law and is accordingly set aside. The petitioner shall be re-instated in service forthwith. Consequent upon the setting aside of the order of termination, the petitioner would also be entitled to all consequential benefits. The writ petition is allowed accordingly.

6. Petition allowed.