

(2023) 04 CHH CK 0062
In the Chhattisgarh High Court
Case No : Writ Appeal No. 219, 228 Of 2021

Kaushal Chandrakar

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 25-04-2023

Acts Referred:

Citation : (2023) 04 CHH CK 0062

Hon'ble Judges : Ramesh Sinha, CJ;P. Sam Koshy, J

Bench : Division Bench

Advocate : Awadh Tripathi, Raghvendra Pradhan, Neeraj Choubey, Jameel Akhtar Lohani, Sunil Sahu

Final Decision : Dismissed

Judgement

1. Heard Mr. Awadh Tripathi, learned counsel for the appellants. Also heard Mr. Raghvendra Pradhan, learned Additional Advocate General, appearing for the State/respondent No.1, Mr. Neeraj Choubey, learned counsel, appearing for respondent No.2, Mr. Jameel Akhtar Lohani, learned counsel, appearing for respondent Nos. 3 to 5 and Mr. Sunil Sahu, learned counsel, appearing for respondent No.7.

2. The present intra Court appeals bearing WA No. 219 of 2021 and WA No. 228 of 2021 have been filed by the appellants against the order dated 28.06.2021 passed by the learned Single Judge in WPS No. 2883 of 2010 (Kaushal Chandrakar & Others v. State of Chhattisgarh & Others) and WPS No.4035 of 2007 (Kaushal Chandrakar & Others v. State of Chhattisgarh & Others), respectively, whereby the learned Single Judge has disposed of both the writ petitions filed by the writ petitioners. Being aggrieved by the said order, the present writ appeals have been filed by the writ petitioners / appellants.

3. Undisputed facts of the cases are that the writ petitioners were appointed on vacant post of Assistant Professor by respondent No.3/College after due approval of respondent No.2-University in accordance with Statute No.28 promulgated by

Pandit Ravi Shankar Shukla University and thereafter they were appointed on 19.09.2005. It is further case of the writ petitioners that since they were already working on the post of Assistant Professor, they were exempted from undergoing period of probation vide order dated 19.09.2005 and thereafter they were appointed on 19.09.2005, but they were stopped working from December, 2005 and ultimately they filed writ petition being Writ Petition No.291/2007 for salary and thereafter again they were required to file amended writ petition (S) No.4035/2007. In that writ petition, the order of termination dated 03.11.2006 was filed by the respondents while filing the reply, then they came to know about their termination and that order has been impugned in Writ Petition (S) No.2883/2010.

4. Return has been filed by respondent No.3 therein, opposing the averments made in the writ petitions and specifically pleaded that work of the writ petitioners was not found satisfactorily and they were stopped teaching work in the college and pursuant to which, they were served with the notice dated 03.09.2006 and 06.10.2006 and thereafter, the Governing Body of respondent No.5 had taken a decision on 16.10.2006 and ultimately, the impugned order dated 03.11.2006 terminating the services of the petitioners had been passed, which is strictly in accordance with law.

5. Mr. Awadh Tripathi, learned counsel for the appellants submits that the learned Single Judge, while passing the impugned order, has committed grave illegality, which requires interference by this Court. He placed reliance upon the decisions of the Supreme Court in the matters of Radhey Shyam Gupta v. U.P. State Agro Industries Corporation Ltd. and Another (1999) 2 SCC 21, Dipti Prakash Banerjee v. Satyendra Nath Bose National Centre for Basic Sciences, Calcutta and Others (1999) 3 SCC 60 and Pavanendra Narayan Verma v. Sanjay Gandhi PGI of Medical Sciences and Another (2002) 1 SCC 520.

6. On the other hand, Mr. Jameel Akhtar Lohani, learned counsel, appearing for respondent Nos. 3 to 5 supports the order passed by the learned Single Judge. He placed reliance upon the decision of the Supreme Court in the matter of State of Uttarakhand and Others v. Sureshwati (2021) 3 SCC 108.

7. We have heard learned counsel appearing for the parties and perused the order impugned and other documents appended with writ appeals.

8. The learned Single Judge, after perusal of materials available on record, disposed of the writ petitions by observing in paras 23 & 24 of the impugned order, as under :

"23. As a fallout and consequence of the above-stated discussion, the order of termination dated 03.11.2006 is held to be not stigmatic or punitive, but it is a termination simpliciter, but it is violative of clause 28 of the Statute No.28 of Pandit Ravi Shankar Shukla University as neither one month's notice was given nor in lieu of notice one month's salary was given. Since the order of termination was termination simpliciter, though in violation of clause 28 of the Statute No.28,

as such, the order of termination cannot be said to be vitiated on account of noncompliance of clause 28 as clause 28 does not require showcause notice to be issued before dispensing with services of probation along with reasons. Therefore, the order of termination dated 03.11.2006 is held to be termination simpliciter without any stigma. However, the petitioners except petitioner No.3 Ramnarayan Chandrakar and petitioner No.6Ku.Renuka Sharma will be entitled for one month's salary in lieu of notice along with 9% interest from the date of entitlement till the date of payment. The petitioners are at liberty to make a representation within 30 days for payment of their salary as claimed in Writ Petition (S) No.4035 of 2017, which will be considered and decided by respondents No.3 to 5 within next 45 days.

24. Accordingly, both the writ petitions are disposed of. No order as to cost(s)."

9. After considering the submissions made by the learned counsel appearing for the parties and upon perusing the impugned order, we notice that the same has been rendered by the learned Single Judge with cogent and justifiable reasons. In the facts and circumstances of the instant case, on a plain reading of impugned order, we do not notice any palpable infirmities or perversities, as such we are not inclined to interfere with the impugned order. Learned Single Judge while disposing of the writ petitions by the impugned order has adverted to all the facts of the case. We do not find any fault in the impugned order.

10. Accordingly, both the writ appeals are dismissed.