
(2010) 12 AHC CK 0036

In the Allahabad High Court

Case No : Special Appeal Defective No. 804 of 2005

Keshav Dev

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-12-2010

Acts Referred:

Citation : (2010) 12 AHC CK 0036

Hon'ble Judges : Ran Vijai Singh, J;Rakesh Tiwari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard learned Counsel for the parties and perused the record.
2. This special appeal has been filed challenging the validity and correctness of the judgment and order dated 29.3.2005 passed by His Lordship Hon. Sunil Ambwani sitting singly dismissing Civil Misc. Writ Petition No. 2115 of 2003, Keshav Dev son of Sri Ram Lal, resident of Mohalla, Durga Colony, Kasganj, Etah v. State of U.P. through Principal Secretary, Medical and Health, U.P. Lucknow and Ors.
3. The judgment impugned in the special appeal has been challenged on the ground that the finding of the learned Single Judge that the Petitioner Appellant was not validly appointed in the year 1996 and has been drawing salary at the place of last posting are perverse inasmuch as the learned Single Judge has ignored the admission contained in paragraph 8 of the counter affidavit dated 8.7.2003 filed by the Respondent.
4. Further His Lordship has also failed to consider that the writ petition was filed in the month of April, 2003 whereas Annexure CA2 and Annexure CA3 are of dated 18.6.2003 and as such these annexures appear to have been concocted.
5. We do not find any force in the contention of learned Counsel for the Appellant. It appears that the writ petition has been filed inter alia on the ground

that the Petitioners were appointed as Pharmacists in the department of Medical Health and Family Welfare. It is claimed that they have been transferred to District Gautam Budh Nagar but the Chief Medical Officer has not allowed them to join and their salary have also not been paid.

6. From perusal of the judgment impugned in this special appeal it appears that the factum of appointment and transfer of the Petitioner Appellant was verified and it has been found that the transfers orders had not originated from the Directorate of Medical Health and Services. Enquiry also appears to have been made from the place from where persons had been transferred and again it was found that they were never appointed and posted. The Court after exchange of counter and rejoinder affidavits has noted thus:

The Petitioners are tried to defend himself by stating that they were validly appointed in the year 1996 and were drawing salary at the place of posting. I find that these denials are not appointed by any material. It has been verified by the Chief Medical Officers, District Gautam Budh Nagar that these persons were not working at the previous place of posting. It is apparent that some fraud has been played in the department and that these persons are making attempt to get entry into service with the help of forged and fraudulent orders.

The department, however, has not taken any step to find out as to who was responsible to issue these orders from the Directorate and whether there was any larger conspiracy behind these fraudulent appointments and transfers. From these pleadings available on record, I am satisfied that the Petitioners were not appointed in the department and have played fraud by reporting for joining in pursuance of forged orders.

All the writ petitions are consequently dismissed.

7. The Chief Standing Counsel was directed to find out the progress of the investigation and the investigation was directed to be concluded by the C.B.C.I.D. within a period of six weeks. The Court was to monitor the progress of the investigation but the progress report with regard to investigation could not be known after dismissal of the writ petition.

8. From the judgment and the record appended with this special appeal we find that the Single Judge has not committed any error in arriving at the conclusion that the appointment of the Petitioner Appellant was forged and he has drawn his salary at his transferred place of posting showing that he has been transferred. We also find that there is no illegality or infirmity in the impugned judgment of the learned Single Judge and there is no merit in this special appeal as the appointment of the Appellant on verification has been found to be a forged.

9. For the reasons stated above, the special appeal is dismissed. No order as to costs.

10. In so far as monitoring of the investigation is concerned, list this special appeal after two weeks. The Standing Counsel will inform the Court about the

status and the stage of investigation of the C.B.C.I.D. as directed in the judgment of the learned Single Judge.