

(2009) 07 AHC CK 0213

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 38130 of 1992

Mahendra Rai

APPELLANT

Vs

U.P. Public Services Tribunal and Others

RESPONDENT

Date of Decision : 16-07-2009

Acts Referred:

Citation : (2009) 07 AHC CK 0213

Hon'ble Judges : Amitava Lala, J and Shishir Kumar, J

Final Decision : Dismissed

Judgement

Amitava Lala, J.—Petitioner challenges the judgement and order passed by the U.P. Public Service Tribunal No.1, Lucknow dated 26th August, 1992 by which termination order of the petitioner dated 26th July, 1986 was challenged.

2. Admittedly, the petitioner was in temporary service and he was terminated after giving show cause notice and obtaining its reply. However, enquiry proceeding was initiated on the basis of forged experience certificate but when it was submitted that the enquiry report was in his favour, the Tribunal held that it is wrong to say that it is in his favour particularly upon going through the entire file.

3. In any event, since the claim petition was dismissed, this writ petition was filed challenging both such orders. In the judgment of the Tribunal it has been categorically observed that Annexure No.1 is the copy of the show cause notice in which it has been clearly written that he has filed a forged experience certificate and in preliminary enquiry it has been found to be correct and therefore, he should submit his reply as to why his services should not be terminated. Thus, it is clear that full opportunity was given to the petitioner to explain whether the experience certificate was forged or he has really experience. In reply to the show cause notice the petitioner has nowhere stated that he has really experience nor he assured to submit another experience certificate. Against it the petitioner has written in his reply that enquiry report has not been given to him, in preliminary enquiry he was not summoned or

preliminary enquiry was not made before him or that proper opportunity was not given to him or that enquiry has not been made according to the appropriate rules. The Tribunal held that the petitioner has tried to take the benefits of legal technicalities instead of submitting proper reply. In his reply he has nowhere written that he had really experience or that experience certificate filed by him was a correct one and that it was not forged.

4. From the above, it is clear that the petitioner had no experience at all or at least he did not file any proper document to show that he was really an experienced person. Therefore, it is clear that he had obtained the service on the basis of a forged certificate of experience. It is clear that petitioner was a temporary employee.

5. Fraud vitiates the entire process. The petitioner being a temporary employee, served with a show cause notice and decision was taken on the basis of his reply. The enquiry was not necessitated for such temporary employee in accordance with law. Therefore, we do not find any reason to interfere with such order when the order of termination, which has been assailed, is not stigmatic in nature in view of the judgments reported in 2005 (106) FLR 1214 (State of U.P. and others Vs. Ram Bachan Tripathi) & 2009 (1) ESC 155 (Parasnath Pandey Vs. Director, NCZCC, Allahabad). Therefore, we dismiss the writ petition, however, without imposing any cost.

Interim order, if any, stands vacated.

(Justice Amitava Lala) I agree.