
(2002) 10 AHC CK 0157
In the Allahabad High Court
Case No : C.M.W.P. No. 28777 of 1994

Mohan Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-10-2002

Acts Referred:

Citation : (2002) 5 AWC 4415

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : K.D. Tripathi, M.M. Siddiqui and J.K. Srivastava, for the Appellant;

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard learned Counsel for the parties and perused the record.

2. The present writ petition arises out of the alleged illegal termination of the Petitioner by Respondent No. 2 from the post of tube-well operator by the impugned order, dated 17.6.1994.

3. The Petitioner was appointed as part-time tube-well operator at tube-well No. 22, at Kirawali, district Agra on fixed monthly salary of Rs. 299 by order, dated 22.7.1988. The terms and conditions of Petitioner's appointment as given in his aforesaid appointment order are as under:

4. The Petitioner states that initially he was appointed for a period of three years. The salary of the Petitioner was increased from Rs. 299 to Rs. 560 per month w.e.f. 1.12.1991. In paragraph 7 to the writ petition, it is stated that all of a sudden, the boring of the tube-well, on which the Petitioner was working, failed and as such, the services of the Petitioner were terminated by the impugned order, dated 17.6.1994 by giving him one month's salary in lieu of notice. The contention of the Petitioner is that 25 tube-well operators, who are junior to him, have been retained in service whereas his services have been terminated and as such, the impugned order is illegal, arbitrary and has been passed without

affording him any opportunity. He has also stated that there are several tube-wells where the posts of tube-well operators are vacant and the Petitioner can be appointed on any of such tube-wells.

5. The standing counsel has contended that the services of part-time tube-well operators are not transferable. He submits that the service of the Petitioner has been terminated according to the terms and conditions contained in the letter of appointment. He further contends that since the Petitioner was not a regular full time operator, he was not entitled to salary of full time tube-well operator. Lastly, it has been submitted that since the Petitioner's appointment was on a particular tube-well, there is no question of seniority or juniority. Since the tube-well operators are appointed against a particular tube-well, no question of seniority involved in the case.

6. From Annexure-2 to the writ petition, it appears that Petitioner's service has come to an end on the failure of the tube-well in pursuance of Government notification issued in 1953. I have perused the impugned order and there appears to be no illegality in the same. On the closure of the place of employment, a person, who is employed particularly for that place will not continue.

7. Apart from the above, the Petitioner is a workman. He has not produced any material before this Court to establish the factum that there are several vacancies in other tube-wells which are in operation. He has also not filed any seniority list in support of his contention that juniors to him are working. The appointment of the Petitioner was a fixed term appointment for three years and he continued thereafter in the exigency of work. It does not vest him with any legal right to continue at the place of employment on the failure of the tube-well itself.

8. In view of the above facts, the petition fails and is dismissed. There is no order as to costs.