
(2000) 07 BOM CK 0074

In the Bombay High Court

Case No : A.S.C.J.W.P. No. 1637 of 1987

Naik Ziyaoor Raheman and Others

APPELLANT

Vs

Chief Executive Officer, Zilla Parishad

RESPONDENT

Date of Decision : 04-07-2000

Acts Referred:

Citation : (2001) 88 FLR 298 : (2000) 2 LLJ 1173

Hon'ble Judges : V.K. Barde, J; R.J. Kochar, J

Bench : Division Bench

Advocate : D.B. Yevataker, for the Appellant; N.S. Choudhari, A.G.P. for respondent Nos. 1 and 2 and A.B. Naik, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Barde, J.—The petitioner was working as a teacher under the Zilla Parishad, Parbhani. His services were terminated by the Zilla Parishad as per the order dated March 17, 1976. Being aggrieved by this order of termination the writ petition is filed. The learned counsel for the petitioner has argued that the original petitioner Naik Ziyaoor Raheman was a Government servant and his services were temporarily transferred to Zilla Parishad. He has not executed his option to continue in the service of the Zilla Parishad and in such circumstances he remained to be the Government servant and his services could not have been terminated by the Zilla Parishad authorities. It is also contended that no departmental enquiry was held and the order of termination is bad in law.

2. The Zilla Parishad, Parbhani has filed affidavit in reply and it is contended that the petitioner was in Government Service but the Zilla Parishad came into existence on May 1, 1962 as per the provisions of the Maharashtra Zilla Parishads and Panchayat Samitis Act and, thereafter, the services of the petitioner were allocated to the Zilla Parishad and the services of the petitioner are governed under the provisions of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964.

3. It is also contended by the Respondent Zilla Parishad that the departmental inquiry was held by appointing an Inquiry Officer. The petitioner had participated in the departmental inquiry. The copy of the finding of the Inquiry Officer was given to the petitioner and after giving full hearing his services were terminated by the Zilla Parishad. The petitioner filed an appeal before the Revenue Commissioner, Aurangabad. The appeal was rejected. The petitioner then moved the State Government but there also he failed. The petitioner had approached Lokayukta for the purposes of his arrears of salary and allowances and bonus etc. All those dues are duly paid to him. It is the contention of the Zilla Parishad that when the services of the petitioner were terminated in the year 1977 the petition is filed in 1987, ten years after the order of termination and there is no proper explanation regarding this delay on the part of the petitioner. So, the petition be dismissed.

4. We do not find any substance in the contention of the learned counsel for the petitioner that services of the petitioner were temporarily allocated to the Zilla Parishad in the year 1962. The services of the petitioner were allocated to the Zilla Parishad and till termination of his services the petitioners never took any objection regarding allocation of his services. Even after dismissal for ten years he kept quite and only in this writ petition the stand is taken that his services were temporarily allocated to the Zilla Parishad and he continued to be the Government Servant. This delay in taking the stand definitely defeats the petitioner. When he worked under the Zilla Parishad continuously for twelve years and got all the benefits in that service now he cannot turn around and say that his services were temporarily allocated to the Zilla Parishad.

5. The petitioner has contended that no departmental inquiry was held but we do not find any substance in this contention also. From the affidavit filed by the Zilla Parishad it is clear that Inquiry Officer was appointed, inquiry was held, the petitioner had participated in the inquiry. The entire file of the inquiry papers is produced before us for perusal. There are documents produced on record by the petitioner himself which indicate that inquiry had taken place and he had participated in such inquiry. In such circumstances, the termination of services of the petitioner is as per rules. Both the rules and principles of natural justice were followed and, thereafter, the order of termination was passed. The petition is devoid of merits. Hence, the same is dismissed. Rule discharged. No order as to costs.