
(2012) 01 AHC CK 0765
In the Allahabad High Court
Case No : Service Single No. 6728 of 1993

Nazakat Hussain	Vs	APPELLANT
Board of Revenue and Others		RESPONDENT

Date of Decision : 13-01-2012

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2012) 01 AHC CK 0765

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Advocate : Umesh Kumar Srivastava and Umesh Kumar Srivastava, for the Appellant;

Final Decision : Allowed

Judgement

Hon"ble Anil Kumar, J.—Heard Sri Umesh Kumar Srivastava, learned counsel for the petitioner, Sri V.S. Tripathi, learned Additional Chief Standing Counsel and perused the record. The facts, in brief, as stated by the learned counsel for the petitioner are that the petitioner on 23.11.1973 appointed on the post of Lekhpal in district Moradabad, on 23.11.1975 confirmed on the said post. However, persons juniors to him have been sent to undergo training in Raja Todar Mal Survey and Land Records Institute for promotion to the next higher post as Land Record inspector but he was not sent for training. Aggrieved by the said fact, petitioner approached this Court by filing Writ Petition No. 484 (S/S) of 1992 anlongwith one other person, namely, Mohd. Ahsan. On 22.1.1992 interim order has been passed, relevant portion is quoted as under:-

In the meantime subject to further orders of the court, the petitioner may be provisionally admitted in the Survey Records Training Institute, Hardoi.

2. Accordingly, it is submitted by the learned counsel for the petitioner that in pursuance to the order dated 22.1.1992 petitioner along with Mohd Ahsan send for training school situate at Hardoi during the session 1991-1992 thereafter

appeared in the examination held from 17.10.1992 to 21.10.1992, declared successful by Board's Order No.1272/4-551(F)/92 dated 13.5.1993.

3. Learned counsel for the petitioner further submits that on 30.6.1993 (annexure no.3) an order has been passed by Commissioner, Moradabad thereby appointing the petitioner as Land Records Inspector in District Rampur. However, while he was working and discharging his duties on the post of Land Records Inspector, the impugned order dated 4.8.1993 (Annexure no.1) has been passed by opposite party no.2 thereby cancelling the posting/promotion of the petitioner, hence the present writ petition has been filed.

4. On 25.8.1993 in the matter in question an interim order has been passed, the relevant portion is quoted as under:-

Meanwhile, the petitioner shall not be reverted from the post of Land Records Inspector to the post of Lakhpal and order to that effect, contained in Annexure -1, shall remain stayed.

5. Sri U.K. Srivastava, learned counsel for the petitioner submits that the sole reason for passing the impugned order dated 4.8.1993 (Annexure no.1) passed by opposite party no.1 is that the petitioner has completed training in pursuance of the order dated 22.1.1992 passed by this Court in Writ Petition No. 484(S/S) of 1992. In this regard he places reliance on para-16 to the writ petition, the same is quoted as under:-

That merely on account of the fact that the petitioner was admitted to the Survey and Land Records Training Institute only on the direction of this Hon'ble High Court in Writ Petition No. 484 of 1991, is passing the aforesaid institute examination as well as his posting as Land Records Inspector in pursuance of the Board's Orders and subsequent transfer to District Rampur, cannot be annulled and cancelled merely on account of the fact that the petitioner had filed a writ petition in which the Hon'ble High Court on being satisfied about the eligibility of the petitioner, had directed his admission to the aforesaid Training School.

6. It is further submitted by learned counsel for the petitioner that the said fact has not been denied by the official respondents in the counter affidavit which sworn by Sri Yudhaveer Singh Bhandari, Tehsildar Takurdwara District Moradabad and in para 10 is reply to para 16 to the writ petition which reproduced as under:-

That regarding the contents of paragraphs 16,17,18 and 19 of the writ petition it is stated that the petitioner's appointment was canceled by Board of Revenue as there was no direction of Hon'ble Court to appoint him and he was allowed to be admitted in training provisionally on the directions of this Hon'ble Court despite the fact the petitioner was junior which would create difficulties.

7. Accordingly, Sri Srivastava, learned counsel for the petitioner submits that the action on the part of the respondent no.1 thereby passing the impugned order is wholly arbitrary in nature, hit by Article 14 of the Constitution of India as well as against the principles of natural justice, moreover the impugned order is also a

non-speaking order and neither any reasons whatsoever has been assigned nor any opportunity of hearing has been given to the petitioner prior to passing the impugned order, so liable to be set aside.

8. After hearing the learned counsel for the parties and going through the record, the undisputed fact of the present case are that the petitioner was sent for training in order to entitle him for promotion as Land Records Inspector, in pursuance of the order passed by this Court on 22.1.1992 passed in Writ Petition No. 484 (S/S) of 1992, completed the said training successfully and passed the examination, posted in district Rampur as Land Record Inspector by order dated 30.6.1993 (Annexure no.3) passed by the Commissioner, Moradabad.

9. Thereafter by impugned order dated 4.8.1993 (Annexure no.1) passed by opposite party no.1 the appointment of the petitioner on the post in question has been cancelled on the ground that petitioner was sent for training in pursuance of the order dated 22.1.1992 passed by this Court in Writ Petition No. 484(S/S) of 1992, the said stand/ground taken by the official respondent while passing the impugned order is arbitrary in nature in contravention to the Article 14 of the Constitution of India and also against the principles of natural justice, as a person for redressal of his grievance is at liberty to approach the competent court, and if he approaches the same any order has been passed in his favour then the same cannot be taken as a ground to punish him that he approaches the court for redressal of his grievance because the expression "socialist" in the Constitution of India introduced in the preamble by the Constitution (forty-second Amendment)Act, 1976. The principal aim of a socialist State is to eliminate inequality in income and status and standards of life. The basic framework of socialism is to provide a decent standard of life to the working people and especially provide security from cradle to grave. This is a blend of marxism and Gandhism leaning heavily towards Gandhian socialism, so keeping in view the said fact the impugned order dated 4.8.1993 (Annexure no.1) passed by opposite party no.1 is unsustainable liable to be set aside.

10. For the foregoing reasons, the impugned order dated 4.8.1993 (Annexure no.1) passed by opposite party no.1 is set aside. The writ petition is allowed accordingly.

No order as to costs.