
(2004) 02 CHH CK 0005
In the Chhattisgarh High Court
Case No : Writ Petition No. 3737 of 2003

Pramod Jha

APPELLANT

Vs

Municipal Corporation Durg and Others

RESPONDENT

Date of Decision : 11-02-2004

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2004) 1 CGLJ 299 : (2005) 1 MPJR 84

Hon'ble Judges : L.C. Bhadoo, J

Bench : Division Bench

Advocate : Ajay Shrivastava, for the Appellant; Sharmila Singhai, Deputy Govt. Advocate for State, for the Respondent

Final Decision : Allowed

Judgement

L.C. Bhadoo, J.

The Petitioner has preferred this writ petition under Articles 226/ 227 of the Constitution of India being aggrieved by the action of Respondent No. 1 for not allowing him to join his duties and also for not making payment of the salary w.e.f. 17-9-2003.

Brief facts giving rise to filing of this petition are that the Petitioner is an employee of Respondent No. 1 and is working as Compounder in Deshbandhu/ Titurdeeh Hospital. Vide order dated 30th July, 2003 (Annexure-P/2) the Petitioner was, while working as Compounder, directed to report to the Chief Medical and Health Officer in the District Hospital, Durg. He was further directed to report daily in the morning at 8 am in the Office of the Chief Medical and Health Officer and under his guidance he should work for prevention and inspection of infectious diseases of the 51 wards of the Municipal Corporation Limit of Durg and he should report daily at 6 pm to him. In pursuance of this order, vide order dated 12-9-2003 (Annexure-P/3) the Petitioner was directed to hand over the charge to one Shri Awadhram Pandey, Ayurved Medical Officer.

Accordingly on 16-9-2003, the Petitioner handed over the charge to Awadhram Pandey and on 17-9-2003 the Petitioner reported to the Chief Medical and Health Officer, Government Hospital, Durg.

Under Annexure-P/6 on 17-9-2003 the Petitioner informed the Municipal Commissioner that after handing over the charge on 16-9-2003 to Awadhram Pandey, he reported in the office of the Chief Medical and Health, District Durg on 17-9-2003. On reporting, the Chief Medical and Health Officer verbally informed him that he has got sufficient employees for the purpose and they have not asked for deputing the Compounders, therefore, they cannot provide the work to the Petitioner. Therefore, this letter was sent by post, as per the allegations of the Petitioner the same was not accepted.

When the Petitioner was not paid the salary for the period from 17th September 2003 to 30th September 2003 he again sent a letter (Annexure-P/7) to the Commissioner, Municipal Council for the payment of the salary for the said period. Thereafter, again on 16th October 2003 the Petitioner sent a letter (Annexure-P/8) through post to the Chief Medical Officer, Government Hospital, District Durg, the copy of the same was sent to the Commissioner and it is mentioned in the letter that on 17-9-2003 after joining he requested him that his name has not been included in the team, but his name was not included on the ground that the work of the prevention and inspection of the infectious diseases was commenced on 1st April 2003 whereas, the Petitioner was sent on 17th September 2003 when the work was about to finish on 30th September 2003. In this letter the Petitioner also required that his services be reverted back to the Municipal Corporation.

No return has been filed on behalf of Respondents 2 and 3. A preliminary return has been filed on behalf of Respondent No. 1 in which it has been stated that the Petitioner was relieved on 16-9-2003. Thereafter he did not join in the office of the Chief Medical and Health Officer, District Durg. On 17-9-2003, the Chief Medical and Health Officer had directed the Petitioner that he should get his attendance marked in the office of the R.M.O., copy of the order is Annexure-R/3. Vide order dated 27-9-2003 the Commissioner, Municipal Corporation demanded the attendance sheet of the Petitioner, copy of the same is Annexure-R/4. On 30th September 2003 a letter was written to the Petitioner for submitting his attendance sheet so that he can be paid, but the Petitioner has not submitted his attendance sheet.

Rajjoinder has been filed on behalf of the Petitioner in which it has been stated that when on 17-9-2003 the Petitioner reported than Respondent No. 3 had said that Respondent No. 1 has unnecessarily deputed the Petitioner and that is why Respondent No. 3 does not want to send the attendance sheet nor his attendance was marked. As Respondent No. 3 informed the Petitioner that Respondent No. 3 has sufficient employees in the Government Hospital for survey and prevention of the infectious diseases so neither the work was allocated nor the Petitioner has been relieved for reporting in the Municipal

Corporation. Even after the requests made by the Petitioner, since the letters were not accepted, the Petitioner had sent those letters under certificate of posting and copy of the same are Annexures PR-1, PR-2, PR-3 and PR-4.

I have heard the learned Counsel for the parties.

Learned Counsel for the Petitioner raised all those points which have been mentioned in the petition. The letter written by the Petitioner to the Respondents which was sent under certificate of posting on 17-9-2003 in which it has been specifically mentioned that Respondent No. 3, when the Petitioner reported, said that he has already sufficient employees and the work was about to finish on 30th September 2003. Therefore, he asked Respondent No. 3 that his attendance be marked and he be relieved. But no action was taken on his letter. A similar letter was written (Annexure PR-2) on 30-9-2003 by the Petitioner to the Municipal Commissioner, Respondent No. 1.

In order to deny and refute the averments and allegations leveled by the Petitioner, Respondent No. 3 has not filed any return nor he has filed any affidavit to refute the allegations of the Petitioner. Similarly, preliminary return has been filed on behalf of Respondent No. 1. It has not been made clear that if the Petitioner had not reported daily in the office of Respondent No. 3 then why the matter was not reported to Respondent No. 1 by Respondent No. 3.

Moreover, why disciplinary action was not initiated against the Petitioner. It is not understandable that when the work was over on 30th September 2003, even if Respondent No. 3 had not given any letter in writing relieving the Petitioner, why Respondent No. 1 has not allowed the Petitioner to join. Moreover, the work for which the Petitioner was deputed commenced in the month of April, 2003 and order for deputing the Petitioner's services was passed on 30th July 2003. It is not known why he was relieved on 16th September 2003, more particularly, when only two week's time was left and major part of the work was already over. In spite of the reminders given by the Petitioner through postal, no response was given by the Respondents, therefore, the conduct of Respondents is not worth appreciation. Even Respondent No. 1 is not allowing the Petitioner to join his duties at his place is most unfortunate. The Petitioner has been made to run from pillar to post without any reason or rhyme. This is high arbitrariness on the part of Respondent No. 1 when he is a permanent employee it is the duty of Respondent No. 1 to see that the services of the Petitioner are utilized and if any lapse is found on the part of the Petitioner then Respondent No. 1 is within his right to initiate the departmental enquiry.

Respondents 2 and 3 have not filed the return in order to refute the allegations of the Petitioner. Only preliminary return has been filed on behalf of Respondent No. 1, therefore, the conduct of the Respondents in dealing with the Petitioner is not worth appreciable.

In the result, the petition of the Petitioner is allowed. Respondent No. 1 is directed to take the Petitioner immediately on his duty and Respondents are

further directed to settle his dispute immediately for payment of his salary for the period commenced from 17th September 2003 onwards within a period of 15 days from today after giving full opportunity to the Petitioner.

Cost is made easy.