
(2013) 12 MP CK 0048

In the Madhya Pradesh High Court

Case No : Writ Petition No. 13874 of 2013

Prashant Kumar Lodhi

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 11-12-2013

Acts Referred:

Citation : (2013) 12 MP CK 0048

Hon'ble Judges : K.K. Trivedi, J

Bench : Single Bench

Advocate : A.K. Jain, for the Appellant; S.M. Lal, Learned Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

K.K. Trivedi, J.—By this petition under Article 226 of the Constitution of India, the petitioner has called in question the order dated 27.07.2013 (Annexure P-1) by which the services of the petitioner have been dispensed with after giving a month's notice. It is contended that in the notice itself it was clear that certain misconducts of the petitioner were found proved only on the basis of complaint made and a show cause was issued to him but his reply was not considered. That being so, the notice of termination of service was bad in law. This Court while entertaining the writ petition, has granted interim relief to the petitioner in view of the law laid-down by this Court in the case of Rahul Tripathi Vs. Rajeev Gandhi Shiksha Mission, Bhopal and others, . By filing a return, it is stated that there were complaints received against the petitioner with respect to the misconduct committed by him and, therefore, a show cause was given to him, of which a reply was submitted by him. However, instead of conducting an enquiry, it was deemed necessary to dispense with the services of the petitioner in terms of the conditions mentioned in the order of appointment and, therefore, notice was issued to him on 27.07.2013. That being so, it is contended that there was no question of conducting any enquiry and as such the claim made by the petitioner for quashment of the order impugned is not acceptable.

2. Such contentions of learned Govt. Advocate cannot be accepted in view of the fact that when a show cause notice was issued to the petitioner and a reply to the same was submitted by him, it was to be seen whether any misconduct is made out against the petitioner or not. In case it was found that there was a misconduct made out, a regular charge-sheet should have been issued to the petitioner and an enquiry should have been conducted before imposing penalty of removal from service. The notice of dispensing with services, issued on 27.07.2013, cannot be said to be in terms of the conditions mentioned in the order of appointment itself as it casts a stigma on the petitioner and branding him with the misconduct, his services were dispensed with. That being so, the order cannot be sustained. The law is well settled in this respect as has been discussed in the case of Rahul Tripathi (supra) by this Court. Even a probationer and a daily wager is not to be removed from service on account of misconduct or on the allegation of committing some wrong by the employer without conducting enquiry. That being so, the order impugned cannot be sustained.

3. Considering the aforesaid, the writ petition is allowed. The order dated 27.07.2013 (Annexure P-1) is hereby quashed. However, if at all any misconduct of the petitioner is found, the respondents would be at liberty to initiate the proceedings in accordance to law for conducting an enquiry and to take action in accordance to law against the petitioner, if any misconduct is found proved. With the aforesaid, the writ petition stands allowed and disposed of.