

(2015) 06 KAR CK 0186

In the Karnataka High Court

Case No : Writ Petition No. 10085 of 2013 (S-RES)

Raghavendra B.

APPELLANT

Vs

S.C. Sharma and Others

RESPONDENT

Date of Decision : 01-06-2015

Acts Referred:

Citation : (2016) 1 AKR 218 : (2015) 5 KarLJ 132 : (2016) LabIC 694

Hon'ble Judges : R.S. Chauhan, J

Bench : Single Bench

Advocate : Raghavendra B., for the Appellant; P.S. Rajagopal, Sr. Counsel for Rajagopal Associates, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Raghvendra S. Chauhan, J.

1. Dr. Raghavendra B, the petitioner, has approached this Court with the following prayers:

i. Issue a writ in the nature of certiorari or any other appropriate writ, order or direction quashing the Order: TU:EST:E-1:2010-11:2876 dated 21-2-2011 (Annexure-N) issued under Rule (6) of the Karnataka Civil Service (Probation) Rules, 1977 by the respondent No. 3, as arbitrary, illegal and contrary to law.

ii. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction, declaring that following acts of the respondent No. 1 and respondent No. 2 against the petitioner are highly arbitrary, illegal and contrary to law and the acts of respondent Nos. 1 and 2 are as follows:-

1. No reply and actions by the respondent No. 1 to the complaints (produced as Annexure-AJ dated 1-9-2012 and 3-10-2012) of the petitioner.

2. Decision of the respondent No. 2 (produced as Annexure-AH dated 20-10-2012) to the fraudulent copies of SR book (produced as Annexure-AD dated 22-9-2012) and the minutes of the syndicate meeting (produced as

Annexure-AE dated 22-9-2012).

iii. Call for records;

iv. Order a compensation of one crore rupees for the severe and intense damages and injuries caused to the petitioner for over five ears continuously.

v. Allow the writ petition with cost;

vi. Grant such other relief that this Hon"ble Court may deem fit in the facts and circumstances of the matter;

vii. And pass such orders as this Hon"ble Court deems fit in the circumstances of the case, in the interest of justice and equity.

2. The petitioner has appeared in person before this Court. At the outset, he has frankly conceded that he is only challenging the impugned order dated 21-2-2011 passed by respondent No. 3, Tumkur University, whereby he has been discharged from the service. He does not wish to press other prayers mentioned in the petition. Therefore, the only issue before this Court is whether the order dated 21-2-2011 is legally sustainable or not?

3. The brief facts of the case are that respondent No. 3, Tumkur University, published a notification dated 24-2-2010, whereby vacancy for certain teaching posts, i.e., Associate Professors, Assistant Professors and Professors were advertised. The petitioner applied for the post of Assistant Professor in Chemistry. By order dated 27-5-2010, the petitioner was appointed to the said post on probation. According to the appointment order, the petitioner was kept on probation for a period of two years. The petitioner reported to duty on 2-6-2010. On 14-6-2010, a service agreement was entered between the petitioner and respondent No. 3. However, according to the petitioner, the original copy of the said agreement was not given to him; only a duplicate copy was furnished to him. During his tenure, he sought for original copy of the service agreement. However, the same was not given to him. He also sought for "No Objection Certificate" for making an application to the National Institute of Technology. Even the said application was not replied to, and "No Objection Certificate" was never given to the petitioner. He also prayed to respondent No. 2, the Registrar of Tumkur University, to give him the original copies of his documents. However, these original copies were not given to the petitioner till 21-2-2011. However, on the same day, i.e. on 21-2-2011, the petitioner was discharged from the service. Hence, this petition before this Court.

4. The petitioner has vehemently contended that the discharge as an illegal one as no reason has been assigned for discharging him from the post. According to him, only vague words like "unsatisfactory" and "unsuitable" have been used. But no reasons have been assigned for coming to the conclusion about his performance being either "unsatisfactory", or "unsuitable". Moreover, the probation was said to be for a period of two years. Thus, he could not have been discharged till the end of the said period. Lastly, the impugned order is a

stigmatic one. Since the principles of natural justice have been violated by the respondents, the impugned order deserves to be interfered before this Court.

5. On the other hand, the learned counsel for the University, has contended that under Rule 6 of the Karnataka Civil Services (Probation) Rules, 1977 (for short, the Rules of 1977), the University has ample power to discharge the probationer from service even prior to the completion of the period of probation. Secondly, that the impugned order is neither stigmatic, nor an illegal one. Having seen the performance of the petitioner, the University was convinced that his performance was unsatisfactory. Therefore, he was equally unsuitable to hold the post of Assistant Professor in Chemistry. Thus, the impugned order is discharge order simplicitor and not a stigmatic one. Thirdly, there is no requirement of law that before passing the order, the probationer has to be given an opportunity of hearing. Thus, the learned counsel has supported the impugned order.

6. Heard the petitioner-in-person and the learned counsel for the respondents, and perused the impugned order.

7. A bare perusal of the impugned order clearly reveals that the petitioner has been discharged from the service on the ground that his performance is unsatisfactory, that he is unsuitable for the post.

8. Rule 6 of the Rules of 1977 is as under:

6. Discharge of a probationer during the period of probation.-(1) Notwithstanding anything in Rule 5, the Appointing Authority may, at any time during the period of probation, discharge from service a probationer on grounds arising out of the conditions, if any, imposed by the rules or in the order of appointment, or on account of his unsuitability for the service or post; but the order of discharge except when passed by the Government, shall not be given effect to, till it has been submitted to and confirmed by the next higher authority.

(2) An order discharging a probationer under this rule shall indicate the grounds for the discharge but no formal proceedings under the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, shall be necessary.

9. A bare perusal of the provision clearly reveals that the Appointing Authority may discharge a probationer from service even prior to the completion of the period of probation. Moreover, the probationer may be discharged on account of "unsuitability for the post". Further, that the order of discharge shall indicate the grounds for the discharge, but no formal proceedings under the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, need to be undertaken. Thus, Rule 6 requires some reasons to be given, although formal proceedings under the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 need not be followed. Thus, the respondents are free to pass discharge order simplicitor.

10. Since two reasons have been given by the respondents for discharging the petitioner from his service, namely, i.e., performance is unsatisfactory and he is

unsuitable for the post, the petitioner is unjustified in claiming that no reasons whatsoever were assigned for discharging him from service.

11. Moreover, there is no requirement under Rule 6 of the Rules of 1977 that grounds for coming to the conclusion that the petitioner's performance is unsatisfactory or he is unsuitable for the post, need to be stated in the discharge order. Thus, the petitioner is justified in claiming that vague words like "unsatisfactory" and "unsuitable" have been used. It is, indeed, trite to state that a probationer can be discharged through a discharge order simplicitor, Even according to Rule 6(2) of the Rules of 1977, a formal proceeding under the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, shall be followed while assigning the reasons for discharging the probationer.

Since the University has complied with the requirements of Rule 6 of the Rules of 1977, this Court does not find any illegality or perversity in the impugned order dated 21-2-2011. Hence, this petition is devoid of merits. Accordingly, it is, hereby, dismissed.