

(1971) 01 AHC CK 0012
In the Allahabad High Court
Case No : Writ Petition No. 198 of 1968

Raghuraj Singh Tiyaagi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 08-01-1971

Acts Referred:

Constitution of India, 1950 — Article 226, 311

Citation : AIR 1971 All 354

Hon'ble Judges : H.C.P. Tripathi, J

Bench : Single Bench

Advocate : S.K. Srivastava, for the Appellant; Chief Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

H.C.P. Tripathi, J.—The petitioner was appointed on 12th May, 1956 on a temporary post of Assistant Consolidation Officer. By the order dated 19th January, 1967 (Annexure 4 to the petition) passed by the Consolidation Commissioner, Uttar Pradesh, petitioner's services were terminated on payment of one month's salary. Petitioner represented against a sudden termination of his services to the Board of Revenue but his representation was rejected by the order dated 10th November 1967. Petitioner has challenged the (sic) of the order dated 19th January, 1967 in this writ petition inter alia on the ground that by putting in about eleven years' service he had acquired a quasi-permanent status and as the impugned order amounts to an order of punishment, it violates Article 311(2) of the Constitution because the petitioner has not been afforded a reasonable opportunity to show cause against it. In the petition it has been alleged further that the opposite party No. 2, the Settlement Officer (Consolidation), Gorakhpur, was ill-disposed towards the petitioner and had submitted confidential false reports against him to the Deputy Director and had thus, manipulated to get the order of termination of his services. In the counter-affidavit filed by the opposite party No. 2, it has been stated that the petitioner

was appointed on a temporary post of Assistant Consolidation Officer, that throughout his service he had remained a temporary employee and that his services were terminated by giving him one month's salary in lieu of one month's notice. It has been averred further that the petitioner's allegation that opposite party No. 2 was biased against him in any manner is incorrect and whatever report he had sent to his superior officers regarding the performance of the petitioner was in response to his duties and the Deputy Director during one of his visits to Gorakhpur had put some verbal questions regarding some cases decided by him but neither any charges were framed against the petitioner nor any punishment had been awarded to him.

2. Learned Counsel for the petitioner has urged that the background, as narrated in the writ petition, in which the impugned order was passed, indicates that it is not an innocuous order but one which amounts to an order of punishment and as such is hit by Article 311(2) of the Constitution. Learned counsel has added further that as the opposite party No. 2, the Settlement Officer (Consolidation), was prejudiced against the petitioner, he has manipulated to obtain the impugned order dispensing with his services by submitting incorrect reports to the superior authorities of the department. I, however, find no force in any one of these contentions.

3. Opposite party No. 2 in his counter-affidavit has denied that he was biased against the petitioner or that in sending his reports to the superior authorities regarding the petitioner's performance, he had acted mala fide. In paragraph 11 of the petition, it is mentioned that the opposite party No. 2 had given good remarks to the petitioner in his inspection notes. That shows that the allegation that opposite party No. 2 was biased against (sic) no substance.

4. In paragraph 3 of the petition it is admitted that "the petitioner's services were only to be terminated by one month's notice or one month's pay in lieu thereof." Admittedly, therefore, the petitioner was a temporary hand and had continued as such during the course of his service. The contention of the learned counsel that by putting in eleven years' service, though in a temporary capacity, the petitioner has acquired a quasi-permanent status is wholly erroneous in law because the status of the petitioner remained the same in spite of his length of service.

5. In terms the impugned order is wholly innocuous. It neither leaves any stain on the character of the petitioner nor does it visit him with penal consequences. It is settled law that where the order is such that it does not attach any stigma on the employee, the court will not go behind the order to find out its background, vide I.N. Saksena Vs. State of Madhya Pradesh,

6. In the case of Ram Gopal Chaturvedi Vs. State of Madhya Pradesh, the services of a Temporary Civil Judge in Madhya Pradesh had been terminated. The learned Chief Justice of Madhya Pradesh had dictated a note regarding him indicating therein that Sri Chaturvedi did not enjoy good reputation regarding his

honesty and that he had been associating with a girl for over an year and his relations with her were not at all innocent. Even then the Supreme Court was pleased to observe that as no charge-sheet was served on the employee and as no departmental inquiry was held against him it was immaterial that the order was preceded by an informal inquiry into his conduct with a view to ascertain whether he should be retained in service and as the order itself was innocuous it did not attract the operation of Article 311 of the Constitution.

7. Learned counsel has invited my attention to the decision of the Supreme Court in Jagdish Mitter Vs. The Union of India (UOI), and also to the decision reported in the same volume at page 1680. The aforesaid decisions are distinguishable on facts and therefore, it is not necessary to dilate on them.

8. In the light of the aforesaid decisions of the Supreme Court, it must be held that the challenge raised to the validity of the impugned order has no force. In the result, this petition is dismissed but there will be no order as to costs.