

(1976) 02 AHC CK 0027

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 4755 of 1975

Ram Ujagir Chaudhary

APPELLANT

Vs

State of Uttar Pradesh and others

RESPONDENT

Date of Decision : 27-02-1976

Acts Referred:

Constitution of India, 1950 — Article 226, 309, 311

Citation : (1976) 02 AHC CK 0027

Hon'ble Judges : K.N.Singh, J

Final Decision : Dismissed

Judgement

K.N. Singh, J.

The petitioner was appointed social male worker in the family planning department in a temporary capacity and posted at Gonda. Later on in the year 1969, he was transferred to Orai. While he was posted there the District Magistrate, Orai, terminated his services by his order dated October 5, 1974, by giving him one month's salary in lieu of period of notice. The petitioner made representation before the District Magistrate, but no orders were passed therein. Aggrieved the petitioner challenged the order of the District Magistrate, terminating his services by means of this petition under Article 226 of Constitution.

It is urged that though the order is innocuous on its face but in substance it is an order of punishment because the petitioner's services were terminated on the ground of his absence from duty. In the counteraffidavit filed on behalf of the respondents it is asserted that the petitioner's work and conduct was not satisfactory, as he remained absent from duty for a considerable period of time without any sanction of leave further the petitioner failed to achieve the target fixed for male social worker in vasectomy cases. On an overall assessment of petitioner's work the District Magistrate, the appointing authority was satisfied that the petitioner failed to make use of opportunity given to him, thereupon he terminated the petitioner's services in accordance with the rules applicable to

temporary Government servants without recording any finding or assigning any reason or casting any stigma against the petitioner. It is well settled that negligence in performance of duty or defect in manner of working of a temporary Government servant can legally be taken into account by the appointing authority in terminating his services in accordance with the terms and conditions of the rules applicable to temporary Government servants. In *Collector v. Mataru Ram* 1975 A.L.R. 130 a Division Bench of this Court has taken this view in almost similar circumstances. There is thus no merit in the petitioner's contention.

It was then urged that some secret enquiry was held against the petitioner and findings were recorded and it was on that basis that the petitioner's services were terminated, although no opportunity was given to him. In the counteraffidavit the petitioner's assertion is denied and it is stated that no secret enquiry was held against the petitioner, in the circumstances the question of giving opportunity to the petitioner did not arise.

Lastly it is used that the District Magistrate was not the appointing as such he was not competent to terminate the petitioner's services. Admittedly the petitioner was appointed in service by Assistant Director of Family Planning but his services have been terminated by the District Magistrate, Orai. It appears that originally the male social workers were appointed by the Assistant Director and Joint Director but later on the Governor issued a notification dated April 30, 1969 in exercise of his powers under Article 309 of the

Constitution declaring the District Magistrate to be the appointing authority for the appointment of all male family planning health assistants. After the issue of the notification the District Magistrate became the appointing authority and as such he could terminate the petitioner's services in accordance with the rules applicable to temporary Government servants.

In view of the above discussion the petition fails and is accordingly dismissed. There will be no order as to costs.