

(2007) 05 AHC CK 0023
In the Allahabad High Court

Ravindra Kumar Tiwari

APPELLANT

Vs

Executive Engineer, Nalkoop Anurakshan Khand and Others

RESPONDENT

Date of Decision : 14-05-2007

Acts Referred:

Citation : (2007) 114 FLR 781

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rakesh Tiwari, J.—Heard Counsels for the parties and perused the (sic) record.

The petitioner was appointed under U.P. Dependents of Government (sic) Servants (Dying in Harness) Rules, 1974 vide order dated 15.3.1989, appended a (sic) Annexure 1 to the writ petition on compassionate ground on account of (sic) accidental death of his father late Sri Frem Shankar Tiwari, who was a permanent (sic) Tubewell Operator in the Irrigation Department. The letter of appointment of the (sic) petitioner dated 15.3.1989 is as under:

dk;kZy; vf/k"kh vfHk;Urk uydwi vuqj{k.k [k.M] >kalh dk;kZy; Kki la[;k 128 ekg 3@89

Jh jfoUnz ddekj frokjh iq= Lo- Jh izse"kadj frokjh dwi pkyd xzke m;djujqj isk-ijor[kkuh ftyk okjk.klh dks fu;fer vf/k"Bku esa uydwi pkyd ds in ij osrueku 330&7&365&8&381 n-jks- 8&405&9&450 n-jks- 9&475 es "kklukns"k la th&12@1973 dkfeZd&2 fnukad 22&6&84 es fufgr izkfo/kku ds vUrZxr e`rd vkfJr ds :i esa uydwi pkyd ds in dk dk;ZHkkj xzg.k djus dh frfFk ls fu;qfDr dh tkrh gS A ;g vkns"k loZFkk vLFkbbZ rFkk fcuk fdLh iwoZ lwpuk ds lekIr dh tk ldrh gS A budks ,d ekg dk uydwi pkyd ds in o izf"k{k.k 15 fnu dk flfoy rFkk 15 fnu dk esdsfudy izkIr djuk gksxk A budh LFkkiuk izFke mi[k.M es dh tkrh gS A lgk;d vfHk;Urk izFke budks izf"k{k.k izkIr djkdj rFkk izf"k{k.k ls laq"V gksus ij budh fu;qfDr gsrq v/kksgLrk{kjh ls vkns"k izkIr dj ysxs A blds fy, bUgs dksbZ ;k=k HkRrk ns; ugh gksxk A budks fuEufyf[kr izek.ki= ,d ekg ds vUnj izkIr dj izsf"kr

djuk vfuok;Z gksxk%

1- 100 :- dk izfrHkwfe tks v/kksgLrk{kjh ds uke ca/kd gksxh A jk"V?h; cpr ;kstuk ikl cqđ }kjk tek djuk gksxkA

2- LoLFkrk izek.k&i= eq[; fpfdRIkvf/kdkjh okjk.klh ls izkIr dj tek djuk gksxkA

3- budks uydwi pkyd cksMZ rFkk Mh-vkj-vks- dh ijh{kk mRrh.kZ djuk gksxkA

4- pfj= izek.k&i= T;s"B iqfyl v/kh{kđ okjk.klh ls izkIr dj tek djuk gksxkA

g- vkj- ih- xxZ vf/k"kkh vfHk;Urk

2. His grievance is that by the impugned order dated 21.4.1989 passed th(sic) Executive Engineer, his services have been terminated without any notice (sic) opportunity, which is as under :

dk;Zky; vf/k"kk"kh vfHk;Urk uydwi vuqj{k.k [k.M] Hknksgh dk;kZy; Kki la[;k 141 ekg 4@89

v/kh{k.k vfHk;Urk] uydwi e.My okjk.klh ds i=kad 2848 ?ueaok@bZ&6@ew-vk-? fnukad okjk.klh vizSy 19] 89 ds vuqiky ds dk;kZy; Kki la- 128 ekg 3@39 rFkk i=kad 359@bZ&10 ?k fnukad 15-3-89 }kjk fuxZr Jh jfoUnz dqekj frokjh dwi pkyd dk fu;qfDr vkns"k rkRdkfyd izHkko ls fujLr fd;k tk jgk gS A ;g vkns"k fnukad 21-4-89 ls izHkkoh gksxkA

g- vkj-ih- xxZ vf/k"kk"kh vfHk;Urk^^

3. It appears that the services of the petitioner were terminated in terms of the appointment letter in which it was provided that the services could be terminated without notice to him.

4. The controversy involved in this writ petition is covered by the decisions of this Court in catena of cases. Civil Misc. Writ No. 25956 of 1907- Ajay Kumar Sharma v. State of U.P. and Ors. decided on 1.0.1.2000 reported in (2000)1 UPLBEC-719 may be referred to in this regard wherein it has been held that appointment made under Dying in Harness Rules, 1974 is permanent in nature and cannot be terminated. Hence, the condition in the appointment letter that services of the petitioner could be terminated without any notice is against settled position of law. Services of employee cannot be terminated without giving any opportunity of hearing and except in accordance with law.

5. Following the ratio laid down in Ajay Kumar Sharma's case (supra), the writ petition is allowed. Since petitioner is continuing in service in terms of "interim orders dated 21.8.1990 and is getting salary, month by month, question of issuance of any direction for payment of salary does not arise. It is made clear that in the circumstances the petitioner shall be entitled to all consequential benefits of permanent appointment No order as to costs.