
(2001) 05 AHC CK 0147
In the Allahabad High Court
Case No : C.M.W.P. No. 53498 of 2000

Sher Bahadur

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 16-05-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 3 AWC 1860 : (2001) 90 FLR 354 : (2001) LabIC 3887 :
(2001) 2 UPLBEC 1656

Hon'ble Judges : R.B. Misra, J;M. Katju, J

Bench : Division Bench

Advocate : P. Padia, for the Appellant; S.C. and A. Kumar, for the Respondent

Final Decision : Dismissed

Judgement

This Judgment has been overruled by : Sher Bahadur Vs. Union of India (UOI) and Others, AIR 2002 SC 3030 : (2002) 95 FLR 11 : (2002) 6 JT 152 : (2002) LabIC 2974 : (2002) 3 LLJ 848 : (2002) 5 SCALE 616 : (2002) 7 SCC 142 : (2002) 1 SCR 568 Supp : (2002) 3 SCT 1069 : (2002) AIRSCW 3379 : (2002) 5 Supreme 330

M. Katju and R. B. Misra, JJ.—This writ petition has been filed against the impugned order of the Central Administrative Tribunal dated 22.8.2000 Annexure-11 to the writ petition and for quashing the order of dismissal dated 13.12.1994 Annexure-8 to the writ petition.

2. We have heard learned counsel for the parties.

3. The facts of the case are that the petitioner was appointed as casual labour by order dated 19.5.1989 Annexure-1 to the writ petition. He was subsequently granted pay scale and temporary status on the post of Khalasi.

4. The petitioner was issued a charge-sheet dated 11.5.1991 vide Annexure-3 to the writ petition. In this charge-sheet, the allegation was that the petitioner

fraudulently secured an appointment letter signed by Sri Ajit Singh A.P.O./C., Kashmiri Gate, Delhi and reported for duty as re-engaged casual labour without having worked prior to 1981 and/or without specific and personal approval of the General Manager. The petitioner submitted his reply dated 25.3.1991 vide Annexure-4 to the writ petition. Subsequently, an enquiry was held and enquiry report was submitted holding the petitioner guilty of the charges. He was issued show cause notice vide Annexure-6 to the writ petition. He submitted reply dated 31.10.1994 vide Annexure-7. Thereafter, the petitioner was dismissed from service vide order dated 13.12.1994 Annexure-8 to the writ petition. Aggrieved the petitioner filed an application before the Central Administrative Tribunal which was dismissed on 22.8.2000 vide Annexure-11 to the writ petition. Aggrieved this petition has been filed.

5. Learned counsel for the petitioner submitted that the petitioner was not given opportunity of hearing in the enquiry. We do not agree with this submission. The Tribunal has held in paragraph 6 of the order that opportunity of hearing was given to the petitioner. This is a finding of fact and we cannot interfere with it in writ jurisdiction.

6. Learned counsel then submitted that there was no evidence in support of the finding of guilt. This again does not appear to be correct. A perusal of the enquiry report, copy of which is Annexure-6 to the writ petition, shows that the petitioner himself was examined before the enquiry officer. There was also documentary evidence e.g.. Ex. P-1 which is referred to in paragraph 8 of the enquiry officer's report. In paragraph 15 of the enquiry officer's report, it is stated that the petitioner got appointment without having gone through any selection or screening test which is a pre-requisite condition. Moreover, the particular number of casual labour had to be sanctioned by the General Manager which was never obtained, nor was any post sanctioned by the General Manager. The enquiry officer has observed in paragraph 16 of his report that unless the petitioner got some underhand dealing directly or indirectly the A.P.O./C could not have signed or issued the said invalid or illegal letter of appointment. It is settled law that sufficiency of evidence cannot be seen in writ jurisdiction and all that can be seen is whether there is some evidence. In this case we are satisfied that there was evidence, e.g., the petitioner's own oral evidence before the enquiry officer as well as the documentary evidence.

7. In view of the above, we are not inclined to exercise our discretion under Article 226 of the Constitution. The petition is dismissed.