

(2024) 10 CAL CK 0033
In the Calcutta High Court
Case No : WPA 5641 Of 2024

Sk. Abdul Ahad Ali Vs State Of West Bengal And Others?

Date of Decision : 03-10-2024

Acts Referred:

Citation : (2024) 10 CAL CK 0033

Hon'ble Judges : Jay Sengupta, J

Bench : Single Bench

Advocate : Billwadal Bhattacharyya, Firdous Samim, Gopa Biswas, Payel Shome, Samprii Saha, Amal Kumar Sen, Lal Mohan Basu, Boudhayan Bhattacharya, Stuti Bansal

Final Decision : Disposed Of

Judgement

Jay Sengupta, J

This is an application challenging an order of termination dated 22.02.2024 passed by the respondent authorities in respect of the present petitioner.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner was engaged initially on a temporary basis and later as a casual worker in the designation of Laboratory Attendant (General) in the Yogada Satsanga Palpara Mahavidyalaya. The Secretary, Governing Body of the College had informed in terms of the decision of the Governing Body in Meeting No.260 dated 01.10.2015 that the petitioner would be engaged as a casual worker in the designation of Laboratory Attendant (General) on temporary basis and his monthly wage would be decided by the College authorities. The petitioner has been engaged as a casual worker since then. The petitioner had been discharging his duties diligently with utmost devotion and integrity without any complaint from any quarter. It is settled law that even a contractual status of employment cannot be terminated without affording opportunity of hearing to the petitioner, if founded on allegation and on misconduct. The crux of the allegation was that the petitioner had barged into the Principal's room without knocking the door and taking permission although a meeting was being held inside. There are

allegations of use of intemperate language and the like. By a letter dated 17.11.2023, the petitioner gave a reply to the notice dated 04.10.2023 within the stipulated time as mentioned and requested the authorities to consider the explanation. Incidentally, the notice dated 04.10.2023 was served with certain statements and without serving the petitioner with relevant documents upon which the enquiry was held. This is the first violation of the principles of natural justice. Moreover, the points taken by the petitioner were not considered. That was the second violation. The petitioner was arbitrarily terminated with effect from 01.03.2024 with letter dated 22.02.2024 by the Secretary of the Governing Body. The facts were incorrectly recorded. More importantly, the order was a rather non-speaking one. As have been mentioned earlier, principles of natural justice were violated. Therefore, the respondent authorities should withdraw the order and reinstate the petitioner from the date of termination i.e. 01.03.2024 with full back wages. Reliance was placed on the decisions in State of Uttar Pradesh and others vs Saroj Kumar Singh, reported at (2010) 2 SCC 772 and Nar Singh Pal vs. Union of India, reported at (2003) 3 SCC 588 and an unreported decision of this Court passed in WPCT 33 of 2023 with CAN 1 of 2023 (The Union of India and other vs. Sri Soumitra Dey and another).

Learned counsel for the respondent Nos.3 and 4 denies the allegations made in the writ petition and submits as follows. The petitioner was engaged with a job of laboratory attendant upon his request letter dated 03.08.2015. He was employed as a casual worker vide letter dated 01.10.2015. The employment was not preceded by any selection process or any circulation or notification. His employment was temporary in nature at the pleasure of the College administration. Therefore, the petitioner has no right to employment and no service rules could apply to the petitioner. As would appear from the letters in writing in Bengali annexed in the writ petition that the petitioner had alleged certain things in bad taste and had even attempted to outrage the modesty of a very senior female family member. The reply of the petitioner made it clear that the ruckus and chaos were actually created by the petitioner in the closed-door meeting on 16.05.2023. In fact, the petitioner is in the habit of doing such indisciplined acts in the College premises emboldened by the fact that he is the active member of the ruling party of the State. The petitioner's conduct was put to question in a show-cause notice. The petitioner was given an opportunity to explain his misconduct. In the reply, the petitioner accepted his misconduct to the extent that his voice was loud. He boasted of his political connections. He miserably failed to provide any justification for his actions. The College authorities conducted an enquiry and requested independent members to look into the untoward incident. Based on the report, a General Body Meeting was held on 30.01.2024. It was decided unanimously that the petitioner was given an opportunity of being heard vide notice and had submitted a reply. The reply was read out and the petitioner was held guilty of misconduct and insubordination as the explanation was found to be insufficient.

The State is represented.

I have heard the learned Advocates for the parties and have perused the writ petition, the affidavits and the written notes of argument.

It appears that on the relevant date the petitioner purportedly barged into the Principal's room without taking permission and at least tried to rake up an issue. What happened thereafter in the meeting is a subject matter of enquiry. Quite obviously, the petitioner and the respondent authorities have different versions of what transpired inside the Principal's room.

The contents of the letters relied upon by the petitioner were absolutely outrageous and defamatory. It contained non-verifiable accounts of certain incidents. Such allegations were evidently made in bad taste and were prima facie reflective of the rash and brazen attitude of the petitioner towards those others.

The alleged actions of the petitioner are very serious. However, as has been held by the Hon'ble the Apex Court that even if the services of a casual employee working as such for a reasonable period of time is to be terminated on the ground of misconduct, the same has to be preceded by a proper enquiry which has to afford adequate opportunity of hearing to the petitioner. A simple enquiry by a chosen few preceded by a show-cause and followed by placing the enquiry report before the Governing Body without seeking any further response from the petitioner is not sufficient compliance of principles of natural justice.

In view of the above and in the interest of justice, the impugned order of termination from service is set aside and the respondent authorities are granted liberty to initiate a proper enquiry in accordance with law and conclude the same within a short time, preferably within a period of twelve weeks from this date.

In the meantime, the petitioner shall be entitled to draw regular wages from the respondent authorities and shall also be entitled to back wages. If the respondent authorities do not allow him to enter into the College premises, the petitioner shall not go into the College premises till the conclusion of the enquiry and/or disciplinary proceedings.

With these observations, the writ petition is disposed of.

Parties shall act on a server copy of this order duly downloaded from the official website of this Court.