

(2010) 01 AHC CK 0122

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 994 of 2009

Subhash Chandra Singh

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 18-01-2010

Acts Referred:

Citation : (2010) 01 AHC CK 0122

Hon'ble Judges : S.P.Mehrotra, J and Kashi Nath Pandey, J

Final Decision : Disposed Of

Judgement

S.P. Mehrotra and K.N. Pandey, JJ.—We have heard Shri M.D. Singh "Shekhar", learned Senior Counsel assisted by Shri Shailendra Kumar Singh, learned Counsel for the petitioner, and the learned Standing Counsel appearing for the respondents.

2. Affidavits have been exchanged between the parties. With the consent of the learned Counsel for the parties, the writ petition is being disposed of at this stage.

3. The present writ petition has been filed, inter alia, praying for quashing the order dated 15.12.2008 (Annexure 5 to the writ petition) whereby departmental proceedings were initiated against the petitioner, and the petitioner was placed under suspension.

4. The charge against the petitioner, as mentioned in the Suspension Order dated 15.12.2008, was that the petitioner had taken admission in M.B.B.S. Course in the Scheduled Caste quota on the basis of a forged caste certificate.

5. From the averments made in the writ petition, it appears that the petitioner passed M.B.B.S. examination in the year 1982 from Moti Lal Nehru Medical College, Allahabad. He completed his internship in the year 1983 from the said college itself. The petitioner applied for registration before the Medical Council of Uttar Pradesh, Lucknow, and he was granted registration through certificate

dated 3.7.1989 (Annexure1 to the writ petition) .

6. It further appears from the averments made in the writ petition that in the year 1990, vacancy for the post of Medical Officer in the State of U.P. was advertised by the Uttar Pradesh Public Service Commission. The petitioner applied for the said post against the said advertisement by claiming himself as belonging to Backward Class (subcaste "Kurmi") .

7. Copy of the application submitted by the petitioner for the post of Medical Officer on 24.9.1990 has been filed as Annexure2 to the writ petition.

8. The petitioner was required to submit Caste Certificate, which too was submitted by the petitioner.

9. Copy of the Caste Certificate has been filed as Annexure3 to the writ petition.

10. It further appears from the averments made in the writ petition that the petitioner was selected as Medical Officer by the Uttar Pradesh Public Service Commission against the vacancy notified in the Medical Health Services in the State of Uttar Pradesh. The petitioner joined on 13.1.1992 on the said post, and since then he is working.

11. It is, inter alia, further averred in the writ petition that all of a sudden on 15.12.2008 the Suspension Order was passed against the petitioner.

12. It is, inter alia, further averred in the writ petition that the petitioner never submitted any certificate of Scheduled Caste, as alleged in the Suspension Order.

13. By the order dated 20.1.2009, the learned Standing Counsel was directed to produce the original record pertaining to the admission of the petitioner in M.B.B.S. Course. Again, by the order dated 28.1.2009, the learned Standing Counsel was directed to produce the result of the C.P.M.T. for the year 1973 as published in the Newspaper or otherwise. On 11.2.2009, the Court passed the following order :

"Sri Pankaj Saxena, learned Standing Counsel states that the records are not available and are being traced out. He prays for and is granted four weeks" time to file counter affidavit. Rejoinder affidavit may be filed within two weeks.

List thereafter.

As an interim measure, it is directed that the operation of the impugned order so far it places the petitioner under suspension shall remain stayed until the next date of listing."

14. Pursuant to the said order dated 11.2.2009, counter affidavits and rejoinder affidavits have been exchanged between the parties.

15. Along with counter affidavit, sworn on 11.5.2009, filed on behalf of the respondent Nos. 2 and 3, copy of the chargesheet dated 15.2.2008 has been filed as part of AnnexureCA2 to the said counter affidavit.

16. Alongwith the rejoinder affidavit, sworn on 2.8.2009, filed on behalf of the petitioner, copy of the reply dated 1.6.2009 (received by the concerned authority on 9.6.2009) submitted by the petitioner in respect of the aforesaid chargesheet, has been filed as AnnexureRA1 to the said rejoinder affidavit.

17. From the above narration of facts, it is evident that the chargesheet has already been given to the petitioner and he has also submitted his reply in respect of the same.

18. In view of the above, we are of the opinion that the interest of justice would be subserved if the writ petition is disposed of directing the concerned authority (respondent No. 1) to complete the departmental proceedings against the petitioner within a stipulated period, and directing the Suspension Order to be kept in abeyance till the conclusion of the departmental proceedings against the petitioner.

19. We accordingly dispose of the writ petition with the following directions:

1. Within four weeks from today, the petitioner will submit an application before the respondent No. 1 along with a certified copy of this order.

2. The respondent No. 1 will proceed to complete the departmental proceedings against the petitioner in accordance with law expeditiously, preferably within a period of three months from the date of receipt of the aforesaid application.

3. Till the completion of the departmental proceedings by the respondent No. 1, the Suspension Order dated 15.12.2008 (Annexure5 to the writ petition) will be kept in abeyance.

4. The petitioner will cooperate in the departmental proceedings.

20. It is made clear that we have not adjudicated the claim of the petitioner on merits.