

(1952) 06 P&H CK 0026
In the Punjab And Haryana At Chandigarh
Case No : Civil Miscellaneous No. 8 of 1952

Tejbhan Chowdry

APPELLANT

Vs

Rajpura Development Board

RESPONDENT

Date of Decision : 24-06-1952

Acts Referred:

Constitution of India, 1950 — Article 226, 311
Rajpura Development Act — Section 15, 17, 19, 20, 3

Citation : AIR 1953 P&H 99

Hon'ble Judges : Teja Singh, C.J

Bench : Single Bench

Advocate : Jagan Nath, for the Appellant; Lachhman Dass, for the Respondent

Judgement

Teja Singh, C.J.—This is a petition under Article 226 of the Constitution of India for issue of appropriate writs against Rajpura Development Board in respect of two orders made by the Board, one suspending the Petitioner from his post and the oilier dismissing him. The Petitioner alleged that he was previously in the employment of the Government of India but joined the services of the Rajpura Development Board on 4-7-1949 on a salary of Rs. 275/- and certain additional allowances. He was suspended on 8-9-50 under the orders of the Chairman of the Board and later on was dismissed on 4-12-1951. According to him, both the orders were illegal and ineffective because, no opportunity to show cause against them was-given to him under Article 311 of the Constitution of India.

2. The petition is opposed by the Board on various grounds but it is not necessary to deal with them all, because the Petitioner"s counsel has not been able to convince me that he was entitled to the benefit of Article 311 of the Constitution. The Article reads as follows:

(1) No person who is a member of a civil service of the Union or an all India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him;

Reading both these clauses together there can be no doubt that opportunity to show cause under Clause (2) can be claimed only by a person, (1) who is a member of a civil service of the Union or an all-India service, (2) who is a member of a civil service of a State or (3) who holds a civil post under the Union or a State. It is not even alleged by the Petitioner's counsel that his case comes under the first part. As regards the second part counsel's contention is that since the Rajpura Development Board is for all practical purposes a department of the State Government and is constituted under the orders of that Government, he is a member of the civil service of the State. He also contends that his case falls within the third part, because he holds a civil post under the State. Both sides are agreed that the Board came into existence by virtue of the provisions of the Rajpura Development Ordinance No. V of 2006 Bk. Section 3 of the Ordinance deals with the constitution of the Board and lays down that the Government shall constitute a Corporation to be called the "Rajpura Development Board" for the purpose of constructing and developing the township, etc. etc Sub-section (2) of the Section provides that the Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Ordinance, to acquire, hold and transfer property, etc. Section 6 which deals with the appointment of officers and servants of the Board reads as follows.:

(1) The Board shall, subject to the approval of the Government of India, appoint an Administrator to carry on the functions of the Board on such remuneration and conditions of service as may be determined by the Board.

(2) The Administrator shall be the Chief Executive Officer and a wholetime servant of the Board and will act as Secretary to the Board.

(3) The Board may appoint such other officers and servants as it considers necessary for the efficient discharge of its functions on such terms and conditions of service as it may consider proper.

Section 15 makes certain provisions of the Municipal Act applicable to the Board. Section 17 lays down that all property acquired by the Government for the purposes of the township shall vest in the Board and all income derived therefrom shall be credited to the Board. Section 19 is to the effect that the Board shall have its own fund to which shall be credited all grants and advances made by the Government from time to time and all receipts of the Board. Section 20 gives the Board the power to incur expenses which it deems necessary for discharging its functions under the Ordinance. All these provisions taken together leave no doubt that the position of the Board is just like that of a local body such as a Municipal Committee or a Corporation and in spite of the fact that it is constituted by the Government and some of the acts to be performed by it are

subject to the approval of the Government, it is an autonomous body. In the circumstances I cannot understand how a servant employed by the Board u/s 6 Sub-section (3) can be regarded a member of a civil service of the State or it can be said that he holds a civil post under the State, It has recently been held by the High Court of Simla in - Mangal Sain Vs. The State of Punjab and Another, that a person in the service of a local authority within the territory of a State does not hold a civil post under the State. In my opinion this is exactly the case with a servant of the Rajpura Development Board and consequently it was not necessary for the Board before suspending or removing the Petitioner to give him opportunity under Clause (2) of Article 311 of the Constitution of India.

3. It may be pointed out in this connection and the matter appears to me to be very significant, that only the Rajpura Development Board has been made a respondent in this case and not the Government. This, in my opinion, shows that the Petitioner holds the Development Board responsible for his suspension and dismissal and not the Government and this being the case he could not be given any relief because the provisions of Article 311 were not complied with. The result is that the petition fails and is dismissed with costs. Counsel fee Rs. 100/-.