
(2008) 04 AHC CK 0213
In the Allahabad High Court

Vijay Kumar Pandey

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 04-04-2008

Acts Referred:

Citation : (2008) 105 RD 42

Hon'ble Judges : U.K. Dhaon, J;Devi Prasad Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

U.K. Dhaon and Devi Prasad Singh, JJ.—Heard Sri R.C. Singh, learned Counsel for the petitioner and Sri Ghaus Beg, learned Central Government Counsel for the opposite parties.

2. The instant writ petition arises against the judgment and order dated 29.03.2005 passed by the Central Administrative Tribunal, Lucknow Bench, Lucknow, by which the Original Application preferred by the petitioner was dismissed.

3. The brief facts of the case are that the petitioner was provisionally appointed on the post of Extra Departmental Delivery Agent (hereinafter referred as EDDA) with effect from 23.9.1997. The opposite party No. 3 sent a requisition to the Employment Exchange, Bahraich for sponsoring the names of suitable candidates for appointment on the post of EDDA/EDMC, Bhanga District Bahraich. The petitioner has alleged that his name was registered with the Employment Exchange, Bahraich. The petitioner submitted his application for appointment on the post of EDDA/EDMC, Bhanga District Bahraich on regular basis. The application of the petitioner along with others were duly considered by the authorities and thereafter the petitioner was appointed on the post of EDDA/EDMC, Bhanga, Bahraich on regular basis by the appointment letter dated 24.01.1998. The opposite parties thereafter sent a notice dated 17.11.1998 to the petitioner calling upon him to show cause as to why his services be not

terminated because he had procured the services on the basis of false list purported to have been sent by the Employment Exchange. In compliance of the show cause notice, the petitioner submitted his reply to the opposite parties on 30.01.1998. Being aggrieved by the show cause notice the Original Application was moved by the petitioner before the Central Administrative Tribunal, Lucknow. During the pendency of the Original Application, the impugned termination order dated 17.12.1998 was passed by the opposite parties. The petitioner thereafter challenged the termination order dated 17.12.1998 by moving an application for amendment, which was duly allowed by the Central Administrative Tribunal, Lucknow Bench, Lucknow. The Tribunal after considering the material on record and after hearing the learned Counsel for the parties at length dismissed the Original Application.

4. The learned Counsel for the petitioner submits that in a most arbitrary and illegal manner the services of the petitioner were terminated by the authorities by the order dated 17.12.1998. He further submits that the provisions of Rule 6 of the EDA (Conduct and Service) Rules, 1964 was not followed by the authorities while passing the impugned termination order. He further submits that no enquiry was conducted by the authorities to the effect that fraud was committed by the petitioner. He further submits that the name of the petitioner was sponsored by the Employment Exchange through letter dated 30.8.1997. The learned Counsel for the petitioner has relied upon the decision of Hon'ble the Supreme Court in the case of Chief Engineer, M.S.E.B. and Anr. v. Suresh Raghunath Bhokare reported in 2005 (2) SC.159.

5. Sri Ghaus Beg, learned Counsel for the opposite parties submits that there is no illegality in the impugned judgment and order dated 29.03.2005 passed by the Central Administrative Tribunal, Lucknow. He further submits that after issuance of the show cause notice and after considering the reply submitted by the petitioner, the impugned termination order dated 17.12.1998 was passed by the authorities. He further submits that the name of the petitioner was not mentioned in the list dated 29.8.1997, which was sent by the District Employment Officer, Bahraich. He further submits that the District Employment Officer, Bahraich, through his letter dated 21.01.1998 categorically denied that the name of the petitioner was sponsored for appointment on the post of EDDA/EDMC and the list dated 30.8.1997 is a fake list. He further submits that the impugned termination order dated 17.12.1998 was passed by the authorities after following the procedure prescribed under Rule 6 of the EDA (Conduct and Service) Rules, 1964. The learned Counsel for the opposite parties has relied upon the decision of Hon'ble the Supreme Court in the cases of Ram Preeti Yadav Vs. U.P. Board of High School and Intermediate Education and Others, and Vice Chairman, Kendriya Vidyalaya Sangathan and Anr. v. Girdhari Lal Yadav reported in .

6. We have considered the submissions made by the learned Counsel for the parties and gone through the record.

7. It is admitted case of the parties that the petitioner was appointed on the post of EDDA/EDMC, Bhanga District Bahraich on regular basis through appointment letter dated 24.01.1998. The District Employment Officer, Bahraich, through letter dated 21.01.1998 informed the opposite parties that the name of the petitioner for appointment on the post EDDA/EDMC was not forwarded and the list dated 30.8.1997 is a forged and manipulated document. The authorities thereafter sent a show cause notice dated 17.11.1998 to the petitioner stating, inter alia, as to why his services be not terminated because he had procured the services on the basis of false list purported to have been sent by the Employment Exchange. The petitioner thereafter submitted reply to the show cause notice on 30.11.1998. The authorities after considering the reply submitted by the petitioner passed the termination order dated 17.12.1998. The name of the petitioner is not mentioned in the first list dated 29.8.1997 sent by the District Employment Officer, Bahraich. The petitioner has also nowhere stated that his name was mentioned in the list dated 29.8.1997. From the record, it is also evident that a request was made by the opposite parties to the District Employment Officer, Bahraich for sending the name of minimum three and maximum five persons for appointment on the post of EDDA/EDMC. Since the District Employment Officer has categorically denied his signature on the subsequent list dated 30.8.1997, in which the name of the petitioner is also mentioned as sixth candidate, the authorities have rightly held that the appointment sought by the petitioner was on the basis of false and manipulated list.

8. In *Lazarus Estates Ltd. v. Beasley* reported in (1956) 1 All 341 : (1956) 1 QB 702 : (1956) 2 WLR 502 , the Court of Appeal stated the law thus:

I cannot accede to this argument for a moment. No court in this land will allow a person to keep an advantage which he has obtained by fraud. No judgment of a court, no order of a minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything. The court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved it vitiates judgments, contracts and all transactions whatsoever;

9. The Hon''ble Supreme Court in the case of *S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. and others*, has held that this Court stated that fraud avoids all judicial acts, ecclesiastical or temporal.

10. The Tribunal after considering the material on record has rightly dismissed the Original Application preferred by the petitioner. We are of the view that there is no illegality or infirmity in the impugned judgment and order dated 29.03.2005 passed by the Central Administrative Tribunal, Lucknow Bench, Lucknow.

11. The writ petition is devoid of merits. It is accordingly dismissed.