
(2003) 08 AHC CK 0194
In the Allahabad High Court
Case No : C.M.W.P. No. 3003 of 1999

Vinod Bihari Sharma

APPELLANT

Vs

Director General, P.R.D. and Another

RESPONDENT

Date of Decision : 06-08-2003

Acts Referred:

Constitution of India, 1950 — Article 16

Citation : (2003) 6 AWC 4881

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : J.N. Singh, for the Appellant;

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard learned Counsel for the parties and perused the records.

2. The brief facts of the case are that under Rule 3 of the Uttar Pradesh Rakshak Dal Niyamawali recruitment/ selection of honorary guards, Commanders and members of the Toli Nayak are made by a samiti in every village. Under the said Rule in every Gaon Sabha there is a Dalpati under whom one or more Toli Nayak are appointed who represent the member of the Toli according to the population of the village. In each Toli there 10 Rakshaks and the members of the Toli vary according to the population of the village.

3. After the elections of the Gram Panchayat were over in the State G.O. dated 17th July, 1972, was issued for selection of Rakshak, Dalpati, Halka Sardar and Block Commander for various Gaon Sabha and Nayay Panchayat and at Block level. In the aforesaid G.O. the terms and conditions of appointment, qualification and procedure for selection etc. have been given. All the persons who are selected are social workers and are not paid any wages. Paragraphs 2, 3 and 4 relevant for the purpose of the terms laid down in the G.O. dated 17th July, 1972, are as under:

other language

4. The Petitioner has challenged the impugned order dated 18.12.1996, passed by the Respondent No. 2, the Chief Development Officer, Farrukhabad, by which it is alleged that he has been reverted on the post of Halka Sardar.

5. At the time of admission of the writ petition, the impugned order dated 18.12.1998, was stayed by this Court vide order dated 17.2.1999.

6. The facts of the case are that after selection by the selection committee the Petitioner was appointed on 17.7.1991 on the post of Block Commander in Prantiya Rakshak Dal on the recommendation of District Magistrate.

7. It is alleged that the Petitioner was reverted vide order dated 18.12.1998 to the post of Halka Sardar which is impugned in the present writ petition on the ground of being illegal, arbitrary and further that no opportunity of hearing was granted to him before passing the order.

8. The counter-affidavit was filed by the State, inter alia, stating that the Petitioner was not paying any interest to his work and was not attending any meeting as such the Zila Yuva Kalyan Evam Prantiya Vikas Dal Adhikari, Farrukhabad vide order dated 13.12.1995 removed the Petitioner from the post of Block Commander after taking approval from the District Magistrate. It is further stated that since 13.12.1995 the Petitioner has worked for only three days as Halka Sardar. In paragraph No. 7 of the counter-affidavit it has further been stated that in the selection panel Ganga Ram was at Sl. No. 1 and the name of the Petitioner was at Sl. No. 3. Ganga Ram was working as Block Commander against whom an enquiry was initiated. In the enquiry Sri Ganga Ram was acquitted of the charges and since he was at Sl. No. 1 of the select list, he was again appointed as Block Commander and the Petitioner who was only officiating in place of Sri Ganga Ram was reverted to his original post of Halka Sardar.

9. The standing counsel states that according to the Government order dated 29.6.1972 the Petitioner had attained the age of 45 years and as such he cannot be appointed in Prantiya Rakshak Dal as per G.O. dated 17.7.1972.

10. The Petitioner was at Sl. No. 3 in the select list amongst the selected candidates, he cannot be appointed as Block Commander on which Ganga Ram was appointed being at Sl. No. 1 in the list of selected candidates. Further he has attained age of 45 years and, therefore, cannot be appointed in terms of G.O. dated 29.6.1972.

11. There is no illegality or infirmity in the impugned order. The Petitioner has no legal right to continue on officiating post. The Petitioner was not paid any wages. He was not holder of a civil post. The writ petition is not maintainable on this ground also.

12. For these reasons, the writ petition fails and is dismissed. No order as to costs.