

* **THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Writ Petition (Civil) No.6441/2007**

Reserved on : 19.05.2009

Date of Decision : 25.05.2009

Tarun Kumar Roy Petitioner
Through : Mr. Y.S. Chauhan, Advocate.

Versus

University of Delhi & Ors. Respondents
Through : Ms. Maninder Acharya for R-1&2
Mr. S.K. Pandey for R-4, Adv.

**CORAM :
HON'BLE MR. JUSTICE V.K. SHALI**

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| 1. | Whether Reporters of local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the Reporter or not ? | NO |
| 3. | Whether the judgment should be reported in the Digest ? | NO |

V.K. SHALI, J.

1. The petitioner in the instant writ petition has challenged the letter dated 16th August, 2007 issued by the respondent no. 2 terminating his services. It has been further prayed in the writ petition that he be reinstated with all consequential benefits.

2. Briefly stated the facts of the case are that on 1st April, 2005 a post by the name of Nature Education Officer was advertised in the Bio-diversity Park of DDA, a programme supported by Centre for Environmental Management of Degraded Ecosystems, School of Environmental Studies, University of Delhi. The petitioner applied for the said post and he was selected vide letter dated 27th June, 2005. The petitioner was offered the appointment as Nature Education Officer in the aforesaid Project. It was specifically mentioned that he would get consolidated salary of Rs.12,000/- per month and the

appointment would be temporary but is likely to be continue. On 14th July, 2005 the petitioner sent his acceptance to the said offer of appointment and joined on 28th July, 2005. The case of the petitioner is that on 16th August, 2007 Prof. C. R. Babu, Project-in-Charge, Yamuna Biodiversity Park issued a letter to the petitioner that w.e.f 1st September, 2007 petitioner's services are no longer required, and therefore, he must handover any permanent items issued against his name.

3. The grievance of the petitioner in the instant writ petition is that the aforesaid order is bad law. Firstly, it is alleged that the aforesaid order is passed in violation of principles of natural justice that one months notice in writing before the termination of his services under Section 5 sub section 2 of the Temporary Servant Rules ought to have been given. Secondly, the said impugned order is challenged on the ground that it is achieved by malafides and arbitrariness. It is alleged that the petitioner has been victimized and order of termination has been passed selectively. The petitioner has made some allegations of malafides against Mr. Mohd. Faisal, Field Biologist in the same Project who was impleaded as respondent no. 4. It is alleged in the petition that the respondent no. 4 is a powerful person and very close to the Project Director who physically assaulted and humiliated the petitioner in the presence of other staff members and threatened the petitioner with dire consequences. Lastly, impugned order is challenged on the ground that the petitioner was offered appointment as a Nature Education Officer by Deputy Registrar, University of Delhi while as his services are sought to be terminated by Prof. C. R. Babu, Project-in-Charge who himself is subordinate to the Deputy Registrar, and therefore, not competent to issue the termination letter.

4. The respondents no. 1 and 2, namely, University of Delhi have filed their counter affidavits and refuted the allegations of malafides. The stand of the University of Delhi is that the aforesaid Project of Yamuna Bio-diversity Park though it is the Project of Delhi Development Authority but they were specifically entrusted it to Prof. C. R. Babu vide letter dated 11th June, 2005 on account of his special and personal expertise in the field. Prof. C. R. Babu at the time of entrustment of the Project to him was Pro Vice Chancellor of University of Delhi and as he was due to retire from service on 30th June, 2005 and therefore the letter of appointment which was issued on 27th June, 2005 to the petitioner was signed by Deputy Registrar, University of Delhi as obviously Pro Vice Chancellor could not have signed any letter of appointment though he was the Project Incharge. The stand of the respondents No.1 and 2 is that at the time when the impugned letter of termination of services of the petitioner was issued, Sh. C.R. Babu was no more an employee of University of Delhi but was admittedly Project Incharge and therefore he was competent to issue the letter of termination of services of the petitioner on 16th August, 2007. It was also averred that since the services of the petitioner were temporary in nature, therefore, the petitioner could not raise any grievance in as much as termination was not casting any stigma on the petitioner.

5. So far as the respondent no. 4 is concerned, it has chosen to file a separate counter affidavit and refuted the averments that he is very near to Prof. C. R. Babu, Project Incharge or that he was instrumented in getting the impugned order passed. He has also denied the allegations made by the petitioner in the petition.

6. I have heard the learned counsel for the parties and perused the record.

7. During the course of arguments, the learned counsel for the petitioner raised only one point with regard to the competence and the validity of the termination order. The contention of the learned counsel for the petitioner was that as the petitioner was offered letter of appointment to the post of Nature Education Officer vide letter dated 27th June, 2005 by the Deputy Registrar, University of Delhi, therefore for all practical purposes he was an employee of the University of Delhi and the termination had to take place only by an authorized person of the University of Delhi in accordance with law.

8. As against this both on behalf of the respondents no. 1 and 2 Ms. M. Acharya, learned counsel contended that as the letter of 11th June, 2005 specifically made Prof. C. R. Babu as the Project Incharge for the Bio-diversity Park Project which was a Project by the Delhi Development Authority but he was competent to issue the termination letter. The time when the offer of appointment was made, Prof. C. R. Babu was posted as Pro Vice Chancellor, therefore, the letter of offer of appointment was issued by the Deputy Registrar, University of Delhi. Obviously, the Pro Vice Chancellor could not have issued the letter of appointment and it was on his instructions and on behalf of Project Incharge the letter of appointment was issued to the petitioner. The letter dated 11th June, 2005 issued by the Delhi Development Authority makes it specifically clear that Prof. C. R. Babu on account of his special expertise in the field in question was made as a Project Director for the entire Project and this assignment was given to him by the DDA especially in view of the fact that he was to superannuate w.e.f. 30th June, 2005, and therefore, the Project Director was not only

competent but also fully empowered to dispense with the services of the petitioner who admittedly was a temporary employee.

9. I have carefully considered the respective submissions. I feel that the petitioner is taking a totally high technical objection only in order to perpetuate his services in the Project where admittedly he is a temporary employee.

10. This conclusion is drawn by the Court on the basis of the letter dated 11th June, 2005 issued by Registrar & Finance Officer, University of Delhi to the Vice Chairman, Delhi Development Authority which especially acknowledges the fact that Yamuna Bio-diversity Park and Aravalli Bio-diversity Park have been entrusted by the Delhi Development Authority to Prof. C. R. Babu, Pro Vice Chancellor on account of his personal expertise. It is in this letter, where it is specifically mentioned that Prof. C. R. Babu is not only to operate, pursue but to also settle all transactions financial and administrative nature with regard to the above mentioned Projects. It may be pertinent here to reproduce the content of the entire letter which reads as under:

“Delhi University Logo

Off. : 27667878
Fax : 27666023
Res.: 24106891

UNIVERSITY OF DELHI
Delhi-110007

K. MANJIT SINGH, IA & AS
M.A.(English) M.Sc. (Finance)
REGISTRAR

No.R/2005/1915
June 11, 2005

The Vice-Chairman,
Delhi Development Authority,
Vikas Sadan,
INA,
New Delhi.

Dear Sir,

The projects for establishment and management of (a) Yamuna Biodiversity Park and (b) Aravalli Biodiversity Park have been entrusted by the Delhi Development Authority to Prof. C. R. Babu, Pro-Vice-Chancellor, University of Delhi, Delhi. Professor Babu is due to retire from service on 30th June, 2005. However, since these projects were entrusted by DDA to Prof. Babu on account of his personal expertise in this field, the University of Delhi has made special provisions to enable smooth execution of financial as well as administrative issues of these projects. The University has also kept in view the fact that Prof. Babu will be intimately associated with the University has also kept in view the fact that Prof. Babu will be intimately associated with the University in his capacity as Professor Emeritus. It may kindly be noted that as Professor Emeritus he is very much a part of Centre for Environmental Management of Degraded Ecosystem (CEMDE).

The University of Delhi has empowered Prof. C. R. Babu to operate, purse and settle all transactions of financial and administrative nature with regard to the above mentioned projects.

This is for your kind information and record.

Yours faithfully,

S/d
(Kanwar Manjit Singh)
Registrar & Finance Officer”

11. A perusal of this letter clearly shows that at the time when the advertisement was floated a letter dated 27th June, 2005 giving offer of appointment letter to the Nature Education Officer to the petitioner Prof. C. R. Babu was functioning as Pro Vice Chancellor, University of Delhi, and therefore, he could not have issued the letter of appointment and it was issued on his behalf of the Deputy Registrar, University of Delhi merely on account of the fact that offer of appointment is issued on a letterhead of University of Delhi having the logo of University does not mean that he has become the employee of the University of Delhi but the fact of the matter is that he is an employee of the Project. The letter of termination dated 16th August, 2007 though issued by Prof. C. R. Babu who by that time had superannuated and in the capacity of Project Incharge had issued the

letter of termination on the letterhead of the Project though that also had the logo of University of Delhi. The said termination letter is not stigmatic in any manner whatsoever and since the petitioner was recruited for the Project and worked for the Project of which Prof. C. R. Babu was the Project Incharge on the strength of letter dated 11th June, 2005 he was fully competent to have terminated the services of the petitioner who was admittedly temporary. Therefore, I find no infirmity in the termination of the services of the petitioner w.e.f. 1st September, 2007. The petitioner could not be said to be an employee of the Delhi University and much less was the requirement to terminate his services by the said University.

12. Since the petitioner was temporary, reliance can also be placed on the following authorities to show that a temporary employee cannot challenge the order of termination unless and until the order is stigmatic for casting a stigma. In the instant case no stigma is being cast on the petitioner. Reliance is placed in three authorities:

Parvanendra Narayan Verma Vs. Sanjay Gandhi PGI of Medical Sciences & Anr. 2002 (1) SCC 520

Radhey Shyam Gupta Vs. U.P. State Agro Industries Corporation Ltd. & Anr. 1999 (2) SCC 21

Krishnadevaraya Education Trust & Anr. Vs. L.A. Balakrishna 2001 (9) SCC 319

13. For the reasons mentioned above, I am of the considered opinion that there is an absolutely no merit in the petition, and accordingly, the same is dismissed. The order stay dated 31st August, 2007 stands vacated.

V.K. SHALI, J.

MAY 25, 2009
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