

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2940 of 2023

Applicant :- Ramashrey Alias Ram Asrey

Opposite Party :- Smt. Madhuri Patel Chairman Jila Panchayat Pratapgarh And 2 Others

Counsel for Applicant :- Ashok Kumar Yadava, Anurag Bhadauria

Hon'ble Rajesh Singh Chauhan, J.

1. Counter affidavit as well as Vakalatnama has filed by Sri Pradeep Kr. Singh Bisen on behalf of opposite parties nos. 2 and 3, the same is taken on record.

2. Heard Ms. Anupama Bhadauria holding brief of Sri Ashok Kumar Yadava, learned counsel for the petitioner and Sri Pradeep Kr. Singh Bisen appearing on behalf of opposite parties nos. 2 and 3.

3. Sri Bisen has drawn attention of this Court towards the order of Writ Court dated 17.03.2023 passed in Writ-A No. 27781 of 2018 which reads as under:

"1. Heard Sri Ram Bali Tiwari, learned counsel for petitioner as well as learned Standing Counsel for respondent No. 1 & 2 and Sri P.K.Singh Bisen, learned counsel for respondent Nos. 3 & 4.

2. By means of present writ petition, the petitioner has challenged the oral order of termination dated 01.05.2018.

3. It has been submitted by learned counsel for petitioner that petitioner was appointed in the year 1981 in the Zila Panchayat, Pratapgarh on the post of Mate on daily wages. Despite working for a substantial length of time, the services of the petitioner was not regularized despite coming into force of the Government Order dated 08.01.1992 which provides for regularization of daily wages employees who had completed 240 days in a calendar year..

4. The case of the petitioner for regularization was not still considered by the respondents consequent to which the petitioner approached this Court by filing Writ Petition No. 6707 of 2003 this Court by means of order dated 02.08.2005, Directed Zila Pachayat to frame scheme and consider the cases of daily wagers for regularization in its establishment and if the work and posts are available, they may be considered for regularisation and they may be paid regular pay scale.

5. The respondents in compliance of the order of this Court dated 02.08.2005 rejected the claim of the petitioner for regularisation on the ground that there is no available post. It is submitted that despite the direction of this Court, no rules were framed by the respondents for regularisation. On the rejection of the claim of the petitioner, he again filed a Writ Petition No. 7730 of 2007 and this Court by means of order dated 30.11.2007 disposed of the writ petition with a direction that petitioner shall be permitted to continue in service as far as possible and whenever a vacancy exists, he shall be given preferential treatment for the purpose of appointment or regularisation. The said order was subjected to a special appeal being Special Appeal No. 218 of 2009 (Apar Mukhya Adhikari and others Vs. Ram Asrey and another) which was decided on 10.07.2014 with a liberty to the petitioner to move an application for appointment whenever an advertisement is being published for direct recruitment in the department, appellants were further directed to consider and give preference to respondent No. 1 over other candidates and further age relaxation has already been given to the respondent No. 1 for its consideration on direct recruitment. The Court further provide if any scheme is framed by Zila Panchayt for regularization of daily

wagers working in its department, the case of respondent No. 1 shall be considered accordingly.

6. Considering the case of the petitioner for regularisation, the respondents orally terminated the services of the petitioner on 01.05.2018.

7. The writ petition has been opposed by the Zila Panchayat by filing a counter affidavit. In the counter affidavit, the fact of oral termination has not been denied but the writ petition has been opposed on the ground that the appointment of the petitioner itself was dehors the rules and the petitioner was not qualified and even the certificates submitted by him were not correct and false.

8. Be that as it may, in case a person who is continuing for more than two decades his services cannot be dispensed with by illegal and arbitrary manner or dismissing him on oral order of termination. Even if there was some misconduct then only services of the petitioner could have been dispensed with after following the procedure established by law and after giving him opportunity of hearing. In the present case, without following any procedure, the services of the petitioner has been dispensed with. Oral order of termination in any case cannot be sustained as it itself on the face of it arbitrary and violative of Article 14 and 16 of the Constitution of India.

7. Needless to say that the State being model employer cannot dispensed with the services of any employee in the manner as has been done and certainly not on oral order or direction. It is settled legal proposition that oral order of termination on the face of it illegal and arbitrary and violative of Article 14 & 16 of Constitution of India.

8. In light of the above, the writ petition is allowed. The oral order of termination dated 01.05.2018 is set aside. The respondents are directed to forthwith allow the petitioner to join and continue in service. He shall further be paid all the consequential benefits from the date of his termination."

4. Sri Bisen has filed the counter affidavit of Sri Rakesh Kumar Yadav, presently serving as Engineer Jila Panchayat, District Pratapgarh, wherein it has been categorically indicated in Para 7 that in compliance of the order of Writ Court dated 17.03.2023, the petitioner has submitted his joining on 28.03.2023 and he was permitted to submit his joining and he is getting his regular salary. Sri Bisen has further submitted that the petitioner was never orally terminated, rather he was himself absent from the duty.

5. In the wake of aforesaid development and also having regard the operative portion of the order of Writ Court dated 17.03.2023, nothing remains to be adjudicated in the present contempt petition.

6. Accordingly, the present contempt petition is **dismissed**.

7. Notices are discharged.

[Rajesh Singh Chauhan,J.]

Order Date :- 10.10.2023

kkv/