

	WPA 8806 of 2018	
	Saurav Das	
	v.	
	The State of West Bengal & Ors.	
29.08.23	Mr. Shaunak Ghosh	
Sl-02	Mr. Anindya Sundar Das	... for the petitioner.
Ct.11		
(S.R.)	Mr. Syed Mansur Ali	
	Mr. Sk. Imtiaj Uddin	... for the College.

A disengaged casual Group-‘D’ employee of the Narasinha Dutt College (in short, the said College) has knocked the door of this Court seeking cancellation of a communication dated 31st May, 2018 whereby he was terminated w.e.f. 1st June, 2018 and his re-engagement in the post.

Mr. Ghosh, learned advocate appearing for the petitioner submits that the petitioner was engaged as a Group-‘D’ staff on a temporary basis and pursuant to the letter of appointment dated 04.06.2012, he joined in the post on 5th June, 2012. Subsequent thereto, the college authority initiated a selection process to appoint regular Group-D employee. The petitioner participated in the said selection process but he could not emerge as a successful candidate.

Mr. Ghosh contends that there was lack of transparency in the selection process and the selection committee committed illegality in selecting the candidates for the posts and hence, the writ petitioner along with

some other candidates preferred a writ petition vide. W.P. no. 4077(W) of 2018. Since the petitioner had approached the court with an allegation of commission of illegalities by the selection committee in conducting the selection process, the college authority was infuriated. Consequent thereon, the respondent no.4 issued a notice dated 15th March, 2018 asking the petitioner to show cause, within 24 hours, seeking satisfactory answers from the petitioners in respect of some allegations levelled against the petitioner. The petitioner submitted his detailed reply on 16.3.2018. Subsequent thereto, by an order dated 31st May, 2018, the writ petitioner was disengaged. According to Mr. Ghosh although the writ petitioner is a casual employee but since his disengagement or termination is punitive one, he is entitled to get benefit the provisions under Article 311(2) of the Constitution of India. To lend support to his such contention, he places reliance upon a judgment of Delhi High Court delivered in the case of *Mangal Singh v. Chairman, National Research Development Corporation & Ors.*, reported in 2009 SCC OnLine Del 2345. He arduously contends that the college authority should have been given an opportunity to the petitioner to defend himself in respect of the allegations brought against him. He submits that letter of termination may be cancelled and direction may be given upon the college authority to re-engage the petitioner in the post.

Mr. Ali, learned advocate appearing for the college submits that the petitioner was engaged as a Group-‘D’ employee purely on temporarily basis. Subsequently, the college authority conducted a selection process and the regular Group-‘D’ employees have been appointed. He submits that the service of the petitioner was no longer required and hence, he was terminated. According to Mr. Ali, such termination cannot be stated to be a punitive termination. He submits that one casual employee cannot claim any vested right to the post and he also cannot claim that a full-fledged disciplinary enquiry is to be conducted against him before his termination as it is done in respect of a regular and permanent employee. He contends that the judgment relied upon by Mr. Ghosh will not come in aid of the petitioner.

Heard the learned advocates. Perused the materials placed before me.

Indisputably, the petitioner was appointed and/or engaged as a Group-‘D’ employee on purely temporary basis. Admittedly, by a notice dated 15th March, 2018 the petitioner was asked to submit his explanation in respect of certain allegations levelled against him and the petitioner also submitted his explanation but the letter of termination does not indicate that the petitioner was terminated on any allegation of misconduct.

There is no scintilla of doubt regarding binding

effect of the proposition of law laid down in the judgments referred in the decision of the Delhi High Court rendered in case of *Mangal Singh v. Chairman, National Research Development Corporation & Ors.(supra)*, that even one casual employee or probationer is entitled to get the protection of Article 311(2) of the Constitution of India if his order of termination indicates that the termination is a result of punishment sought to be imposed upon him but the judgment is distinguishable on facts.

In the letter whereby the petitioner was terminated, there is no indication that the petitioner had terminated on any allegation of misconduct and from the letter of termination it cannot be inferred that the termination is punitive in nature. The petitioner was disengaged as the college authority felt that his service was no longer required.

In such sequence of facts, I am of the considered view that the petitioner is not entitled to claim protection under Article 311(2) of the Constitution of India and the petitioner cannot claim that a full-fledged disciplinary enquiry was required to be conducted against him before his termination.

In view thereof, no interference is called for in the present writ petition. Consequently, the writ petition stands dismissed.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee, J.)