

Item
-16. 22-01-2024

sg Ct. 8

MAT 1298 of 2022
CAN 1 of 2022

Dr. Kausik Paul
Versus
Seacom Skills University & Ors.

Mr. Soumya Majumder, Adv.
Mr. Meghnad Dutta, Adv.
Mr. Avishek Shaw, Adv.
...for the appellant
Mr. Anil Kr. Gupta, Adv.
...for the UGC
Mr. Partha Sarathi Bhattacharya, Adv.
Mr. Mani Sankar Chattopadhyay, Adv.
...for the University
Mr. Biswabrata Basu Mallick, Ld. AGP
...for the State

1. Affidavit of service filed in Court today is taken on record.
2. The appellant is aggrieved by the order passed by the learned Single Judge dated 23rd March, 2022. The impugned order was passed in connection with the writ petition challenging the letter of discontinuance from service dated 19th July, 2021.
3. The University appears to have contended before the learned Single Judge that the letter of discontinuance was preceded by a show cause notice dated 11th June, 2021 and in absence of any explanation offered, the University had decided to discontinue the service of the writ petitioner and accordingly, the writ petitioner was discharged from service.
4. Mr. Soumya Majumder, learned Counsel appearing on behalf of the appellant has submitted that the learned Single Judge has fails to take into consideration that the

letter dated 11th June, 2021 was never served upon the appellant and the proof of such alleged service is sought to be explained upon production of a mail containing incorrect address of the appellant and hence, it cannot be construed that the appellant was served with any notice dated 11th June, 2021.

5. Mr. Majumder submits that his service was discontinued in terms of clause 6 of the said letter, which can be invoked in case of misconduct, violation of University Rules, breach of the contract and severe non-performance. The letter of discontinuance does not refer to any of the aforesaid circumstances and accordingly, it cannot be said that the said letter of discontinuance is not punitive and may not create any difficulty for the appellant in applying for a job commensurate with his educational and academic qualification.
6. The learned Single Judge, however, has proceeded on the basis that the appellant was duly served with the letter dated 11th June, 2021 and since no explanation was offered, it has to be assumed that his discontinuance was due to his non-performance and illegible copy of the letter dated 11th June, 2021 is annexed to the petition.
7. With our strained eye what we could gather is that there are allegations with regard to appellant's failure to fulfil certain responsibilities. Curiously, in the first response to the letter of discontinuance dated 19th June, 2021, the appellant tendered apology and prayed for continuation of service, is evident from the mail dated 23rd July, 2021 and

it would be very difficult at this stage to come to a definite conclusion that the said notice was not served upon the appellant. Otherwise there was no reason for the appellant not to question the reason for which his service was discontinued. However, Mr. Majunder submits that the University has given one month's notice which would show that the University did not consider his performance to be duly standard.

8. The learned Counsel for the University has taken a fair stand that the University has never disrespect any teacher or professor and is willing to consider the appellant's explanation if filed in answer to the show cause. It is submitted that the University, on consideration of the materials on record, had taken a conscious decision to discontinue. Such decision may not prevent the appellant to make a proper representation to demonstrate that there has been any lack of diligence or under-performance as desired from the appellant.
9. On such consideration, we direct the appellant to file a representation against the show cause notice dated 11th June, 2021 within a period of four weeks from date.
10. The Board of the University shall, after giving a reasonable opportunity of hearing to the appellant, consider and dispose of the said representation within a period of eight weeks thereafter by a reasoned order to be communicated to the petitioner within two weeks from the date of final order for the purpose of completion of the aforesaid formalities. The relationship between employer

and employee should be restored for the aforesaid limited purposes without any financial implication.

11. The letter of discontinuance is, however, set aside. The appeal and the application are, accordingly, disposed of. However, there shall be no order as to costs.
12. Urgent photost certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)