

Riaz Ali Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Jul-19-2001

Reported in : 2002LabIC166; (2001)3UPLBEC2425

Judge : D.S. Sinha and ;Lakshmi Bihari, JJ.

Appeal No. : C.M.W.P. No. 2729 of 1995

Appellant : Riaz Ali

Respondent : State of U.P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : S. Farman Ahmad Naqui, ;S.A.S. Abidi and ;Shailendra Kumar Srivastava, Advs.

Disposition : Petition dismissed

Judgement :

D.S. Sinha, J.

1. Heard Shri Shailendra Kumar Srivastava, holding brief of Sayed Farman Ahmad Naqvi, the learned counsel appearing for the petitioner.

2. Neither the pleadings contained in his writ petition, nor the arguments of his learned counsel disclose any legally cognizable and judicially enforceable right of

the petitioner entitling him to assail the order dated January 28, 1995, a copy whereof is Annexure-16 to the petition.

3. The petitioner, as described by him, is an officiating Executing Engineer, and was posted at Etah when he approached this Court by means of instant writ petition.

4. By the impugned order dated January 28, 1995, among others. Shri Ashok Kumar, the respondent No. 3, belonging to scheduled caste, was promoted to the post of Executive Engineer, and posted at Etah, where the petitioner, as noted earlier, was functioning as officiating Executive Engineer. Apprehending that, as a consequence of the regular selection, and promotion of the respondent No. 3 and his posting at Etah, he might be dislodged and divested of the assignment of officiating Executive Engineer at Etah, the petitioner rushed to this Court praying for quashing of the order dated January 28, 1995.

5. It is not disputed that the petitioner was merely an officiating Executive Engineer, and never promoted to the post of Executive Engineer substantively. Mere officiating appointment on a post does not confer upon the incumbent any right to the post. Lien on a post is created upon substantive appointment of the incumbent. The factum of regular selection to the post of Executive Engineer of Shri Ashok Kumar, the respondent No. 3, and his seniority above the petitioner is not in dispute. In the circumstances, in the opinion of the Court, the petitioner cannot be held to be a person aggrieved by the impugned order.

6. Drawing attention of the Court to the encomiums earned by the petitioner from the District Magistrate, Etah and some other officers, in respect of his good work while working as officiating Executive Engineer, the learned counsel appearing for the petitioner submits that the petitioner deserves to be promoted as Executive Engineer. Whether the petitioner deserves the encomiums earned by him, and whether he should be promoted as Executive Engineer on that basis, are the matters to be considered and decided by the relevant authority seized of the matter of promotion of the petitioner as Executive Engineer, as and when occasion arises therefor. That cannot afford ground to this Court for directing the respondents to regularise his services as Executive Engineer w.e.f. March 20,

1994, as prayed by the petitioner.

7. All told, the petition lacks merit, and deserves to be dismissed. Accordingly, the petition is dismissed.

8. The interim order/orders shall stand vacated.

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