

HakimuddIn Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Mar-08-1989

Reported in : 2(1989)WLN(Rev)283; 1989WLN(UC)539

Judge : S.N. Bhargava and G.K. Sharma, JJ.

Appeal No. : D.B. Civil Writ Petition No. 356 of 1988

Appellant : Hakimuddin

Respondent : State of Rajasthan

Judgement :

1. The petitioner was appointed temporarily as Patwari for a period of six months in the first instance vide order dated 24th March, 1964 (Annexure-1). In the appointment order it is also mentioned that the petitioner having passed the Patwar examination from Punjab was being appointed as Patwari and the appointment was subject to the production of a certificate of Medical fitness by a competent Medical Officer. The petitioner continued in service till the order dated 15-12-1987 (Annexure-2) was passed whereby, he was removed from the service. Against this order the present writ petition has been filed.

2. Notices were issued. The State Government has also filed reply. The arguments have been heard and we have perused the record also.

3. The learned Counsel for the State has submitted that the petitioner was appointed irregularly as he has not obtained the Patwar School Certificate as required by Rule 4, Rajasthan Land Revenue (Land Records) Rules, 1957. He has further submitted that the petitioner has not appeared and failed in two Patwar examinations and he cannot be exempted from passing the Patwar examination as his Confidential Reports are not satisfactory. In the order it is also mentioned that a criminal case is pending against him and he remained under suspension for six years. He has placed reliance on 1980 RLW 397 in Sang Singh v. Municipal Board, Pokaran 1988 Lab. IC 26 Full Bench Patna High Court Reeta Mishra v. Director. Primary Education and 1970 SC 1059 State of Rajasthan v. Fateh Chand.

4. We have carefully considered these authorities. In the case of Sang Singh (supra) petitioner had joined his duties on August 3, 1979 and his services were extended for one year and thereafter his services were terminated because he was not qualified. The writ petition itself has been decided on 22nd August, 1980. In the present case the petitioner has been in service continuously right from 1964 till 1987 for nearly 21 years. Similarly, in the case of Rita Mishra (supra) the point involved was 'whether the petitioner was entitled for his pay etc. even though the appointment letter was either forged, fraudulent or illegal. The Full Bench of Patna High Court held that 'The State Government is not bound by the doctrine of promissory estoppel for the acts of its subordinates done in violation of its directions or administrative instructions'. We are not in quarrel with this proposition. In the present case the appointment order of the petitioner itself shows that he had passed the Patwar examination from Punjab and the Government on the basis of this fact had appointed him as a Patwari and he continued to work as such on the said post for 3 years. Similarly, in the case of Fateh Chand (supra) the facts were quite distinguishable. In the present case the impugned order dated 15-12-1987 cannot be said to be a valid order as it amounts to removal without holding an enquiry. If the petitioner is a dishonest person his services can be terminated after holding a regular enquiry. But his services cannot be terminated by passing an order like (Annexure-2) simply saying that because he was not qualified. This order has been passed in violation of principles of natural justice.

5. In view of this matter we allow this writ petition and set aside the order dated 15-12-1987 determinating the services of the petitioner and removing him from the services. It will be open for the Government to bold regular enquiry and if the petitioner is found guilty his services can be dispensed with.

6. The parties are left to bear their own costs.

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