

2024 STPL(Web) 263 SC = 2024 INSC 309

SUPREME COURT OF INDIA
(HONBLE B.R. GAVAI, J. AND HONBLE SANDEEP MEHTA, JJ.)

SANDEEP KUMAR

Appellant

VERSUS

GB PANT INSTITUTE OF ENGINEERING AND TECHNOLOGY GHURDAURI & ORS.

Respondent

Civil Appeal No(s). OF 2024 (Arising out of SLP (C) No(s). 8788-8789 of 2023)-Decided on 16-04-2024
Service Law: Non-disclosure of material facts – Termination set aside

Service Law

Service Law - Termination -Non-disclosure of material facts -The Supreme Court allowed the appeals against judgments of the Uttarakhand High Court, which dismissed the writ petition filed by the appellant challenging the termination of his services as Registrar of G.B. Pant Institute of Engineering and Technology. The High Court held that the appellant's failure to produce minutes of a specific meeting constituted suppression of material facts.

However, the Supreme Court observed that the appellant had indeed submitted the relevant minutes, which contradicted the reasons for termination cited by the institute. The Court found the termination without holding a disciplinary enquiry to be unjustified and a violation of principles of natural justice. Consequently, the Court quashed the impugned judgments and reinstated the appellant as Registrar, with entitlement to all consequential benefits. The institute was given the option to conduct disciplinary proceedings if desired.

(Para 12, 14, 18, and 20)

JUDGMENT

Mehta, J. :- Leave granted.

2. The instant appeals are directed against the judgments dated 4th August, 2022 and 21st February, 2023 passed by the learned Division Bench of Uttarakhand High Court in Writ Petition(S/B) No. 395 of 2022 and MCC Review Application No. 4 of 2022 in Writ Petition(S/B) No. 395 of 2022, respectively.

3. The learned Division Bench of Uttarakhand High Court, vide judgment dated 4th August, 2022 dismissed the Writ Petition(S/B) No. 395 of 2022 filed by the appellant herein under Article 226 of the Constitution of India for assailing the order dated 19th May, 2022 passed by respondent No.2 terminating the services of the appellant on the post of Registrar of respondent No.1- G.B. Pant Institute of Engineering and Technology (hereinafter being referred as 'Institute').

4. Being aggrieved by the judgment dated 4th August, 2022, the appellant filed a review application being MCC Review Application No. 4 of 2022 in Writ Petition(S/B) No. 395 of 2022 which too was dismissed by the learned Division Bench of the Uttarakhand High Court vide its judgment dated 21st February, 2023. These two judgments are assailed in the present set of appeals.

5. Learned Division Bench of High Court held that the appellant herein did not place on record the minutes of the 26th meeting of the Board of Governors held on 16th June, 2018 which were referred to in the termination letter dated 19th May, 2022 and that this non disclosure tantamounted to suppression of material facts warranting dismissal of the writ petition solely on that ground.

6. Shri Gautam Narayan, learned counsel representing the appellant urged that the failure of the petitioner (appellant herein) to place on record the aforesaid minutes was neither intentional nor malafide. He referred to the minutes of the meeting dated 16th June, 2018 placed on record of the instant appeals as Annexure P-8 and urged that as a matter of fact, these minutes support the case of the appellant because the Board of Governors of the Institute approved the recommendations of the Selection Committee, and thereby, selected the appellant as the Registrar of the Institute.

7. He further drew the Court's attention to the appointment letter (Annexure P-10) dated 2nd December, 2019 wherein, it is indicated that the appellant was being appointed on the post of the Registrar on probation for a period of one year. He urged that the appellant continued to satisfactorily serve as the Registrar of the Institute for a period of nearly two years and hence, his services were deemed to have been automatically regularized in terms of clauses (a) and (b) of the appointment letter, which are reproduced herein below for the sake of ready reference: -

“(a) You will be on probation for a period of one year; however it may be extended for another year in case performance is not found to be satisfactory. No further extension on probation will be given.

(b) During probation your service may be terminated without assigning any reason by giving one month notice or pay in lieu thereof. Similarly, you may give one month notice period or pay salary equivalent to one month notice to be relieved from institute.”

8. Learned counsel urged that before taking the action of terminating the services of the appellant, neither any enquiry was conducted nor any opportunity to show cause was given to the appellant and merely on the ipse dixit of respondent No.2, the services of the appellant were terminated. He urged that the impugned order, whereby the learned Division Bench of High Court dismissed the writ petition filed by the appellant on a purely technical ground i.e. non-placing of relevant document on record, is totally unsustainable in the eyes of law. He thus, implored the Court to accept the appeals and set aside the impugned orders and direct reinstatement of the appellant on the post of Registrar.

9. Per contra, Shri Amit Anand Tiwari, learned Senior counsel representing the respondents, vehemently and fervently opposed the submissions advanced by the appellant's counsel. He urged that the very appointment of the appellant on the post of Registrar was illegal because he did not possess the requisite qualifications as per the rules. He thus, urged that there was no requirement to hold a regular enquiry before terminating the services of the appellant. His contention was that the appellant concealed a vital document in the writ petition filed before the High Court and thus, he was not entitled to equitable relief in the extraordinary writ jurisdiction.

10. However, Shri Tiwari was not in a position to dispute the fact that before imposing the major penalty of termination of service upon the appellant, no disciplinary enquiry was conducted by the authorities.

11. We have given our thoughtful consideration to the submissions advanced at bar and have gone through the impugned judgments.

12. The impugned judgment rejecting the writ petition of the appellant is premised purely on the fact that the appellant failed to place on record the minutes of the 26th meeting of the Board of Governors dated

16th June, 2018, which are referred to in the termination letter dated 19th May, 2022. The Division Bench of High Court held that these minutes would have shown that the appointment of the petitioner (appellant herein) to the post of Registrar was made contrary to the rules. We are afraid that these observations of the Division Bench are not fortified from the minutes of the meeting dated 16th June, 2018 which have been placed on record by the appellant in these appeals.

13. For the sake of ready reference, the relevant excerpts of the minutes of meeting dated 16th June, 2018 (Annexure P-8) are reproduced herein below: -

“26.08: Approval of the recommendations/minutes of various Selection Committee regarding the Advertisement No. 01/Admn/ 2017 dated 03.01.2017 on the nonteaching posts and the advertisement no. 01 / faculty /2013 – 14 dated 08.06.2013 of the teaching staff in reference to 25th meeting of the Administrative Council and the Hon’ble High Court.

As per rule of the College Byelaws, the envelopes of the recommendations/minutes of the Selection Committee was opened by the Administrative Council and the recommendations and the minutes of the Selection Committee were approved as per below:

S.No.	Name of the Candidate	Name of the Department	Name of the Post	Category
1.	Dr Mahipal Singh Chauhan	Civil Engineering	Professor	General
2.	Dr Harvendra Singh Bhadoria	Computer Science and Engineering	Associate Professor	General
3.	Mr. Vivek Kumar Tamta	-do-	Assistant Professor	SC
4.	Mr. Papendra Kumar	-do-	-do-	SC
5.	Dr. Sachin Tejyan	Mechanical Engineering	-do-	General
6.	Mr. Sunil Chamoli	-do-	-do-	General
7.	Mr. Ravikant Ravi	-do-	-do-	SC
8.	Mr. Chandraveer	-do-	-do-	SC
9.	Mr. Suresh Chandra Phulera	Biotechnology	-do-	General
10.	Mr. Divyesh Sharma	Civil Engineering	-do-	General
11.	Mr. Siddharatha Chansela	MCA	-do-	General
12.	Mr. Sandeep Kumar	Administration	Registrar	General

*As a result of the selection of Shri Lalta Prasad, Assistant Professor (Scheduled Caste) in NIT Shri Nagar, if he resigns/gives VRS from the post joining there, the appointment letter may be issued to Shri Chandraveer against this post.

A number of complaints have been received regarding the candidate selected for the post of Registrar. Their inquiry must be carried out. How the norms of selection have been fixed, the detailed report be submitted. The proceedings of the appointment be stayed until the next order.”

14. A bare perusal of the aforesaid minutes clearly indicates that the recommendations of the Selection Committee, whereby, the appellant herein was selected on the post of Registrar were approved by the Board of Governors. However, a caveat was marked to the effect that the appointment order of the appellant would be kept in abeyance on account of the fact that some complaints were received regarding the candidature of the appellant on the post of Registrar.

15. In pursuance of the so called complaint(s), a three member committee was constituted to scrutinize the documents and qualifications/testimonials of the appellant vide order dated 26th June, 2019 (Annexure P-36). The committee submitted its report (Annexure P-37) on 11th July, 2019 finding all the documents of the appellant to be genuine and in order. It also opined that the appellant fulfilled the eligibility criterion for being appointed on the post of Registrar.

16. A letter dated 10th November, 2019 (Annexure P-9) was issued by the Member Secretary, Board of Governors of the Institute addressed to the members of the Board of Governors including the Hon'ble Chief Minister, Minister of Technical Education (Chairman of the Institution) and the Additional Chief Secretary (Vice Chairman of the Institution) seeking perusal and approval of the recommendations of the Selection Committee and to direct the Member Secretary, Board of Governors to issue the appointment letter in favour of appellant.

17. Acting in furtherance of the said letter and the approval granted by the competent authorities, an appointment letter dated 2nd December, 2019 (Annexure P-10) was issued and the appellant joined services on the post of Registrar. As per the extracted portion of the appointment letter (supra), the appellant was placed on probation for a period of one year which was extendable for another year in case, the performance during the first year was found to be unsatisfactory. Clause (b) further provided that during probation, services of the incumbent may be terminated without assigning any reason by giving one month's notice or pay in lieu thereof. There is no dispute on the aspect that the appellant had satisfactorily worked on the post of Registrar in the Institute for nearly two years and thus, apparently he completed the probation period without demur.

18. On a bare perusal of the termination letter dated 19th May, 2022, it becomes apparent that the decision to terminate the services of the appellant from the post of Registrar was not preceded by an opportunity to show cause or any sort of disciplinary proceedings. The enquiry as referred to in the termination letter was in relation to the qualifications of the appellant for being appointed on the post of Registrar. The letter further indicates that the selection to the post of Registrar was not approved by the Board of Governors in its 26th meeting dated 16th June, 2018. The said observation in the letter dated 19th May, 2022 is totally erroneous and contradicted by the minutes of the meeting dated 16th June, 2018. (reproduced supra)

19. In this background, we are of the firm view that the termination of the services of the appellant without holding disciplinary enquiry was totally unjustified and de hors the requirements of law and in gross violation of principles of natural justice. Hence, the learned Division Bench of the High Court fell in grave error in dismissing the writ petition filed by the appellant on the hypertechnical ground that the minutes of 26th meeting of the Board of Governors dated 16th June, 2018 had not been placed on record.

20. As a consequence, we pass the following directions: -

(i) The impugned judgments dated 4th August, 2022 and 21st February, 2023 passed by the High Court are quashed and set aside.

(ii) The order dated 19th May, 2022 whereby, the services of the appellant on the post of Registrar of the Institute were terminated is also declared to be illegal and as a consequence, the same is quashed and set aside.

(iii) That the appellant shall forthwith be reinstated on the post of Registrar of G.B. Pant Institute of Engineering and Technology, Ghurdauri. He shall be entitled to all consequential benefits.

(iv) The respondent-Institute is left at liberty to conduct disciplinary proceedings against the appellant as per law, if so desired.

21. The appeals are allowed in the above terms. No order as to costs.

22. Pending application(s), if any, stand(s) disposed of.

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