

Tarlochan singh

Vs

Punjab State Warehousing Corporation and others

Civil Appeal No. 323 of 1991 (arising out of S.L.P. (C) No. 9610 of 1985

(K. N. Singh, P. B. Sawant JJ)

23.01.1991

## JUDGMENT

1. Leave granted.

2. The appellant was employed in the Punjab State Warehousing Corporation as an Accounts Clerk. In 1976, he was promoted to the post of Warehousing Manager, Grade-III and placed on probation for a period of one year. On the expiry of the probationary period, no order was passed either extending the period of probation or confirming him on the post of Warehousing Manager, Grade-III. There were allegations of misappropriation of Corporation's fertilizer against the appellant, and a case was registered with the local police against him on 2-1-79, but before that, the Managing Director by his order dated 1-12-1978 terminated the appellant's services by giving him one month's salary in lieu of one month's notice under Regulation 11 of the Punjab Warehousing Staff Regulations, 1960. The appellant was prosecuted for misappropriation of the fertilizer of the Corporation but he was acquitted by the Criminal Court as the prosecution failed to produce evidence to substantiate charges framed against him. On his acquittal, the appellant filed a Writ petition under Article 226 of the Constitution in the High Court challenging the order of termination and seeking relief for reinstatement along with backwages. The High Court by its order dated 13-3-1985 dismissed the writ petition on the ground that the order of termination had not been passed by way of penalty, instead the order was an innocuous order of termination under Regulation 11 of the Staff Regulations. The appellant has challenged the order of the High Court by means of this appeal.

3. After hearing learned counsel for the parties, we are of the opinion that this appeal must succeed. Regulation 11 provides for termination of services of employees of the corporation. Clause (2) of Regulation 11 confers power on the Board of Directors and the Managing Director to terminate services of any employee of any class by giving him two months' notice or pay in lieu thereof. In the instant case, the appellant was not given two months' notice or pay in lieu thereof as is clear from the perusal of the order of termination dated 1-12-1978 which has been placed before the Court by the learned counsel appearing for the respondent-Corporation. It is thus apparent that the order of termination was not passed in accordance with the Staff Regulations, therefore, the order is rendered illegal. We accordingly allow the appeal, set aside the order of the High Court as well as the order of termination dated 1-12-1978 and direct that the appellant shall be reinstated to service.

4. We make it clear that the appellant will not be entitled to backwages having regard to the facts and circumstances of the case. The appellant is, however, entitled to cost which is quantified at Rs. 2000/-.

Appeal allowed.

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