

Ram Narain Yadav

Vs

State of Haryana and others

Civil Appeal No. 2810 of 1992

(L. M. Sharma, N. Venkatachala JJ)

03.08.1992

JUDGMENT

1. Heard the learned counsel for the parties. Special leave is granted.
2. The appellant was holding the post of Secretary to the Speaker in the rank of Under Secretary. On the 15th of January, 1991 he was promoted as the Deputy Secretary to the Legislative Assembly and put on probation for a period of one year. On the 8th of November, 1991, the Speaker passed an order under Rule 10(2)(b)(i) of the Haryana Vidhan Sabha Secretariat Service Rules, 1981 reverting him as an Under Secretary. This order was challenged before the High Court on the ground of mala fides. By the impugned judgment, the High Court has dismissed the application.
3. Mr. P. P. Rao, the learned counsel for the appellant has contended that since there was no warning given to the appellant earlier about the allegedly poor quality of his work and as the order of termination of his services came all of a sudden, the same is illegal in view of the observations made in paragraph 4 of the judgment in *Dr. Mrs. Sumati P. Shere v. Union of India*, (1989) 3 SCC 311 : (AIR 1989 SC 1431). It is also contended that a perusal of the order of reversion of the appellant indicates that till further orders were later passed he was to continue to perform the same work which he was doing earlier. If that was the position, the argument is, it was not a proper exercise of the authority under Rule 10 in terminating the period of promotion prematurely and reverting the appellant to Under Secretary rank. Lastly, it has been stated that in any event the appellant is entitled to his salary on the scale as admissible to a Deputy Secretary on the ground that he was discharging the same functions.
4. Mr. Sibal, the learned counsel on behalf of the respondents has opposed the application mainly on the ground that it was for the authorities to consider the satisfactory nature of the services discharged by the appellant during the probation period and if his work was found unsatisfactory after 10 months, it was open to them to have terminated the probation. With respect to the aspect that the appellant was allowed to discharge the same function even later, it was explained by Mr. Sibal that since he was assigned the duty of dealing with the committee of public accounts and since the financial year was coming to a close, it was not practicable to entrust the work to another person immediately, and, therefore, although his work was not found satisfactory he was allowed to work. Having regard to all the facts and circumstances of the case, we are of the view that no interference in the present matter is expedient except issuing a direction to the respondents to pay the appellant his emoluments on the same scale as he was entitled to while holding the rank of Deputy Secretary of Legislative Assembly till he was relieved of that post. It appears from the records that he

functioned up to the 7th May and was relieved from his duty from the 8th of May. The appeal is, therefore, dismissed subject to the aforesaid direction about the payment of the further amount by way of emoluments. The amount which has already been paid to him, however, shall be adjusted. The appeal is disposed of, but there will be no orders as to costs. Order accordingly.

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