SUPREME COURT OF INDIA

H.F. Sangati

Vs.

R.G. High Court of Karnataka

C.A.No.1463 of 2001

(R.C. Lahoti CJI . and Brijesh Kumar J.)

23.02.2001

JUDGMENT

R.C. Lahoti, J.

1. Leave granted in both the S.L.Ps.

2. H.F. Sangati was appointed as Munsif on probation in the Karnataka Judicial Services vide an order dated 25.6.1991 and was posted as Munsif & JFMC w.e.f. 16.9.1991. The Administrative Committee of the High Court of Karnataka in its meeting dated 13.11.1995 considered the question of satisfactory completion of the period of probation of the Munsifs appointed during the year 1991. On a review of the confidential records and the remarks based on assessment of their work, the Committee recorded its opinion that the performance of the petitioner as a judicial officer was too poor to be considered satisfactory for his confirmation on the post. Accordingly the Committee recommended to the Full Court that the petitioner be discharged from service. The recommendation so made was considered and accepted by the Full Court in its meeting held on 26.3.1996.

3. Kittur Muthappa Hanumanthappa was appointed as Munsif on probation vide notification dated 7.7.1992 and was posted as Additional Munsif & JFMC w.e.f. 1.9.1992. The initial period of probation of two years was extended by one year w.e.f. 25.7.1994. The Administrative Committee of the High Court in its meeting held on 6.2.1996 considered the question of satisfactory completion of the period of probation of the Munsifs appointed during the year 1992. On a review of the confidential records and the remarks based on assessment of their work as sent by the principal District Judges, the Committee formed an opinion that the performance of the appellant as a judicial officer was too poor to be considered as satisfactory for his confirmation to the post. The recommendation so made was considered and accepted by the Full Court of the High Court on 26.3.1996.

4. The Registrar General of the High Court made a reference to the State Government whereon the following notificationdated 13th May, 1996 was issued NOTIFICATION

5. In exercise of the powers conferred by Rule 6(1) of the *K.S.C. (Probation) Rules, 1977*, I Khursheed Alam Khan, Governor of Karnataka hereby order that the following Munsiffs working at the posts mentioned against their names as hereunder be discharged from service with immediate effect, as they are unsuitable to hold the post of Munsiffs:
Srihuths:

> "1) A. Hanumanthappa, J.M.P.C.II Court, Shimoga
>
> 2) Sangoti Hanumanthappa Fakirappa, IInd Additional Munsiff, Belgaum Bharmanna Neyakas Siddappa Majunathaswamy Munsiff and J.M.F.C. Harepanshalli (Khurshed Alam Khan) Governor of Karnataka By order and in the name of the Governor of Karnataka Sd/- (M.R. Venkataramaiah) Under Secretary to Government, Law Department (Administration-I)"

6. The two appellants filed two separate writ petitions impugning their discharge from service. A learned single Judge of the High Court of Karnataka dismissed both the writ petitions by two separate judgments assigning similar reasons. Writ appeals preferred by both the appellants have been dismissed. The appellants have filed these appeals by special leave to this Court.

7. It was not disputed before the High Court, either before the learned single Judge or before the Division Bench hearing the writ appeals and has also not been disputed before this Court that the two appellants have been discharged from service during the period of probation. It is also an admitted fact that no order was passed declaring the period of probation having been successfully completed and confirming any of the two appellants in service.

8. It is also not disputed that the relevant rules governing the period of probation of the appellants are Karnataka Civil Services (Probation) Rules, 1977. The controversy centres around Rule 6, which reads as under:-

> "Rule 6: DISCHARGE OF A PROBATIONER DURING THE PERIOD OF PROBATION :
>
> 1) Notwithstanding anything in rule 5 the appointing authority may at any time during the period of probation, discharge from service a probationer on grounds arising out of the conditions, if any, imposed by the rules or in the order of appointment or on account of his unsuitability for the service or post; but the order of discharge except when passed by the Government shall not be given effect to, till it has been submitted to and confirmed by the next higher authority.
>
> 2) An order discharging a probationer under this rule shall indicate the grounds for the discharge but no formal proceeding under the Karnataka Civil Services (Classification Control and Appeal) Rules, 1957, shall be necessary."

9. It is submitted by the learned counsel appearing for K.M. Hanumanthappa, and H.F. Sangati who appeared in-person, that the order of discharge is not an order of discharge simplicitor; it casts stigma on the appellants in as much as it records - they are unsuitable to hold the post of Munsifs and, therefore, they should have been afforded an opportunity of hearing before passing the impugned orders which having not been done, the impugned order is vitiated for non-compliance with the principles of natural justice. Reliance was placed on a decision of this Court in *V.P. Ahuja Vs. State of Punjab & Ors.*[1]. It is well settled by a series of decisions of this Court including the Constitution Bench decision in *Purushottam Lal Dhingra Vs. Union of India*[2] and 7-Judges Bench decision in *Shamsher Singh Vs. State of Punjab*[3], that services of an appointee to a permanent post on probation can be terminated or dispensed with during or at the end of the period of probation because the appointee does not acquire any right to hold or continue to hold such a post during the period of probation. In Shamsher Singhs case it was observed that the period of probation is intended to assess the work of the probationer whether it is satisfactory and whether the appointee is suitable for the post; the competent authority may come to conclusion that the probationer is unsuitable for the job and hence must be discharged on account of inadequacy for the job or for any temperamental or other similar grounds not involving moral turpitude. No punishment is involved in such a situation. Recently, in *Dipti Prakash Banerjee Vs. Satyendra Nath Bose National Centre for Basic Sciences, Calcutta & Ors.*[4], having reviewed the entire available case law on the issue this Court has held that termination of a probationers services, if motivated by certain allegations tentamounting to misconduct but not forming foundation of a simple order of termination cannot be termed punitive and hence would be valid. In *Satya Narayan Athya Vs. High Court of M.P. & Anr.*[5] the petitioner appointed on probation as a Civil Judge and not confirmed was discharged from service in view of the non- satisfactory nature of the service. This Court held that the High Court was justified in discharging the petitioner from service during the period of probation and it was not necessary that there should have been a charge and an enquiry on his conduct since the petitioner was only on probation and it was open to the High Court to consider whether he was suitable for confirmation or should be discharged from service.

10. In the two cases at hand we find the Administrative Committee of the High Court having took into consideration all the relevant material and thereafter formed an opinion as to the unsuitability of the two appellants to hold the post of Munsifs, which opinion was communicated to and upheld and accepted by the Full Court of the High Court. Pursuant thereto, the State Government issued the impugned order of discharge from service.

11. In our opinion the impugned order does not cast any stigma on the appellants. All that has been said in the impugned order is that the appellants were unsuitable to hold the post of Munsifs. It is pertinent to note that Rule 6 contemplates a probationer being discharged from service on one or more of the following grounds : (i) in terms of a condition imposed by the rules, (ii) in terms of the order of appointment, or (iii) on account of unsuitability of the appointee for the service or post. Sub-rule 2 of Rule 6 requires an order discharging the probationer to indicate the grounds for the discharge. It also provides that such indicating of the grounds for the discharge in the order would not require any formal proceedings under the *Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957* being held.

The impugned order of discharge has been passed in strict compliance with the requirements of Rule 6. It does not cast any stigma on the appellants nor is it punitive. There was, thus, no requirement to comply with the principles of natural justice much less to be preceded by any formal proceedings of enquiry before making the order.

12. Reliance by the appellants on the decisions of this Court in V.P. Ahuja is misconceived. In V.P. Ahujas case the appellants appointment was terminated during the period of probation. One of the recitals of the order was that the appellant failed in the performance of his duties, administratively and technically. The order was founded on a stigmatic allegation and was, therefore, held punitive. The appellant was an employee of a Cooperative Federation in Punjab. The judgment does not refer to the relevant service rules and none have been brought to our notice so as to claim parity of the appellants case with that of V.P. Ahujas case. In these appeals, as we have already stated, the statutory rule requires the order of discharge to indicate the grounds for the discharge. If the ground for discharge would not have been mentioned in the impugned order, it would have invited the criticism of being arbitrary or not satisfying the requirement of the rule. It may be stated that in the High Court, the appellants have not laid any challenge to the vires of Rule 6. H.F. Sangati, the appellant appearing in-person, made a faint attempt at challenging the vires of sub-rule 2 of Rule 6 above-said but the same was not permitted in the facts and circumstances of the case as such a plea was not raised before the learned single Judge or the Division Bench of the High Court.

13. For the foregoing reasons, we find no fault with the view taken by the learned single Judge and the Division Bench of the High Court. The appeals are devoid of any merit and are dismissed though without any order as to the costs.

[1]*(2000) 3 SCC 239*
[2]*1958 SCR 828*
[3]*AIR 1974 SC 2192*
[4]*(1999) 3 SCC 60*
[5]*AIR 1996 SC 750*