

Kuldip Singh and Another Vs The Principal Secretary, Social Welfare, U.P. Shashan and Others

Court: Allahabad High Court

Date of Decision: Sept. 26, 2003

Acts Referred: Constitution of India, 1950 " Article 226

Citation: (2004) 1 UPLBEC 173

Hon'ble Judges: Rakesh Tiwari, J

Bench: Single Bench

Advocate: Vijay Sinha, for the Appellant;

Final Decision: Dismissed

Judgement

Rakesh Tiwari, J.

Heard Counsel for the parties and perused the record.

2. This petition has been filed against order dated 28.4.2000 passed by Secretary, Social Welfare Commission, Lucknow, stating that due to large

number of irregularities group "C" and group "D" posts, hence it has been decided to cancel all such appointments. Accordingly, the petitioners

services were also terminated by the impugned order dated 29.11.2002.

3. This petition has been filed on the ground that above orders are violative of principles of natural justice as no opportunity was given to the

petitioners before terminating the services. They allege that they had been working for the last four years and without holding any enquiry their

services have been terminated only on the basis of the report of the Committee appointed by the U.P. Government for enquiry into the large scale

irregularities committed in the selection.

4. From perusal of the impugned order it is evident that serious nature of irregularities at large scale appear to have been committed in the selection

process compelling the State Government to appoint a fact finding committee.

5. In somewhat similar circumstances the Apex Court in Union of India and Others Vs. O. Chakradhar, , held that where the mischief in

conducting the selection was so widespread and affecting the result, and it was difficult to identify the person unlawfully benefitted or wrongfully

deprived of selection, the whole selection could be cancelled without issuing individual show cause notice to each person selected and principles of

natural justice in such cases would be exception. It was further held that the motive behind the irregularities committed was relevant and that on

facts, the cancellation of entire panel and consequent termination of service of respondent was up held.

6. The facts of the case in the case of Union of India and Ors. v. O. Chakradhar (supra), were that in 1995, the Railway Recruitment Board issued

an advertisement for recruitment to the posts of Junior Clerk-cum-Typist. The respondent was selected and appointed to one of the said posts in

1996. About three years later, the Railway Board found that the candidates had not been subjected to typewriting test which was an essential

requirement and that there were also certain other irregularities in the conduct of the examination. After considering the matter totally and taking

into account the report of CBI and serious nature of irregularities, the Railway Board took a decision to cancel the entire panel and to terminate the

services of all the candidates appointed. Accordingly, the service of the respondent was terminated by an order dated 18.8.1999. CAT set aside

the termination order for violation of principles of natural justice and the High Court upheld that decision. Opposing the appeal, the respondent

contended that he ought to have been intimated of the exact and precise nature of the irregularity or misconduct, if any, committed by him to enable

him to explain the position. He further contended that omission to hold an enquiry in the present case violated Article 311. The respondent added

that his name was not amongst those against whom CBI had recommended action. That, therefore his services were not liable to be terminated.

7. In the instant case also, a Committee was set up by the State Government to enquire into large scale bungling in the selection which culminated

in termination of the selected candidates. The principles of natural justice are not attracted in the instant case. The initial appointment of the

petitioners was irregular marred by large scale of bungling. It is not a fit case for interference under Article 226 of the Constitution of India.

8. No other point has been argued by the Counsel for the petitioners.

9. For the reasons stated above, the Writ petition fails and is dismissed. No order as to cost.