
(2014) 07 AP CK 0138

Andhra Pradesh High Court

Case No: Writ Appeal No. 2049 of 2004

N. Sobha Rani

APPELLANT

Vs

The Material
Management and
Appointing Authority

RESPONDENT

Date of Decision: July 3, 2014

Citation: (2014) 07 AP CK 0138

Hon'ble Judges: M. Satyanarayana Murthy, J; L.N. Reddy, J

Bench: Division Bench

Advocate: K. Vinaya Kumar, Advocate for the Appellant; P. Sri Raghuram, Senior Counsel,
Advocate for the Respondent

Final Decision: Allowed

Judgement

L. Narasimha Reddy, J.

This writ appeal is filed against the order dated 15-12-2004 passed by a learned single Judge of this Court, in

W.P.No.19564 of 2004. The writ petition was filed by the appellant herein, challenging the order of termination dated 20-10-2004.

2. The appellant was selected and appointed as Issue Clerk Grade-III, by the Visakhapatnam Port Trust, the respondent herein, through order

dated 20-08-1992. She was placed on probation for a period of two years. She filed W.P.No.7813 of 1994 against the respondent, complaining

that her services were not being regularized. It was represented by the respondent that the confirmation of an employee in the service would take

place on completion of two years of service, and by the time the writ petition was filed, the period of two years did not expire. Taking note of that

contention, a learned single Judge of this Court dismissed the writ petition through order dated 09-09-2004. Hardly within one month, the

respondent issued an order of termination dated 20-10-2004.

3. The appellant challenged the order dated 20-10-2004 by filing Writ Petition No. 19564 of 2004. She raised the grounds of violation of service

regulations, and of victimization, for approaching this Court. The respondent took the plea that the contract of employment provided for

termination of an employee, without assigning any reasons, but putting the employee on notice of one month. Learned single Judge accepted the

contention and dismissed the writ petition.

4. Heard the learned counsel for the appellant and learned counsel for the respondent.

5. It is not in dispute that the appellant was employed as Issue Clerk Grade-III, on being selected by a competent agency. In an anxiety to get the

services regularized, she approached this Court, obviously under the impression that she has otherwise fulfilled the conditions therefor. Writ

Petition No. 7813 of 1994 filed by her, in this behalf, was pending before this Court for a period of one full decade. The learned single Judge, who

heard the matter after decade, has simply accepted the contention, that the confirmation of an employee would take place after two years. Though

more than a decade has elapsed, he did not verify as to whether the services of the appellant were confirmed or not. The entire order passed

therein reads as under:

In this Writ Petition, the petitioner is seeking a direction to regularize her services as per Clause 11 of the appointment order, dated 20.8.1992.

2. It is stated that the confirmation of the employee takes place only after two years. Inasmuch as, two years period will be expiring in August,

1994. In view of the same, the Writ Petition has become premature.

3. Accordingly, the Writ Petition is dismissed. No costs.

6. This type of disposal of the writ petition became handy for the respondent to do away with the service of the petitioner. Within days after the

disposal of the said writ petition, the Chief Material Manager passed order dated 20-10-2004 as under:

In pursuance of Sub-Regulation -1 of Regulation -3 of Visakhapatnam Port Employees (Temporary Service) Regulations, 1991, I, Aloke

Choudhury, Chief Materials Manager, Visakhapatnam Port Trust, Visakhapatnam-530 035 hereby giving notice to Smt. N. Sobha Rani, at

present working as Issue Clerk in Materials Management Department, Visakhapatnam Port Trust that her services shall stand terminated with

effect from the date of expiry of a period of one month from the date of which this notice is served on, as the case may be tendered to her.

7. When the same was challenged, the learned single Judge took the view that the termination was in terms of the contract and that no exception

can be taken to it.

8. We are indeed shocked to see the manner, in which the petitioner, who was selected on regular basis, was put on probation, and was in service

for more than a decade; was treated. It is on account of the highhanded, arbitrary and vindictive officials in the management, that the credibility of

the organization suffers, though the employees put their efforts to serve it. The officer by name, Aloke Choudhury, who felt proud in bringing his

name in the order, was so indifferent, that he did not even mention as to the manner in which, the appellant continued in service. To be precise, he

did not even verify as to whether her services stood regularized on expiry of two years, or whether her probation was extended. He invoked

clause 3(1) of the Visakhapatnam Port Employees (Temporary Service) Regulations, 1991. He did not even have the basic knowledge that once

an employee is put on probation, and the period of probation has expired, he cannot be treated as temporary. It appears that, the concerned

officer treated the appellant as though she is his domestic servant, so that he can discontinue her from employment, whenever he wants or wishes.

9. On being appointed as a result of selection, an employee gets valuable rights. It is only by initiating disciplinary proceedings, in accordance with

law, that a service of an employee can be terminated. In view of the judgment of the Supreme Court in *Central Inland Water v. Brojo Nath*

Ganguly & Another, no employer, that too, a State-owned organization can arrogate to themselves, the power, to terminate the services of

employees, on the basis of contracts signed on dotted lines. The impugned order cannot be sustained in law, and it is liable to be set aside, as being

arbitrary, capricious and vindictive.

10. The writ appeal is accordingly allowed, and the order under appeal is set aside. It is directed that the appellant shall be extended all the

benefits of promotion, etc., if they have not been extended so far, together, with the corresponding monetary benefits.

11. There shall be no order as to costs.