

M.R. Bakshi vs K.N. Saksena, P.C.S., Regional Food ... on 4 August, 1953

Equivalent citations: AIR1954ALL5, AIR 1954 ALLAHABAD 5

Author: V. Bhargava

Bench: V. Bhargava

JUDGMENT

Malik, C.J.

1. This is an application on behalf of M. R. Bakshi who was a Supply Inspector in Budaun. His services were temporary as were those of most other persons in the Supply Department--the services being terminable after one month's notice. On 18-5-1953, the Regional Food Controller, Lucknow, served a notice on the applicant in these terms:

"The services of Sri M. R. Bakshi, Foodgrains Inspector, Kashipur, are no longer required. He is hereby served with one month's notice of termination of services with immediate effect."

2. Learned counsel has urged that though the notice purported to be a notice terminating the applicant's services on the ground that the services were no longer required, the real reason for the termination of the service was that there were certain complaints of misconduct against the applicant. Our attention was drawn to appendix 4 of the affidavit and it was said that the termination of service by notice was a device adopted to avoid the necessity of proving misconduct to entitle the opposite party to dismiss the applicant and the termination of service by notice, therefore, really amounted to an order of dismissal.

3. There are two objections to the acceptance of this argument. Firstly, the appendices relied on are not parts of the affidavit. Learned counsel has stated that he could not include them in the affidavit as he was not sure about the correctness of the contents in those appendices. The other objection is that even if there was some suspicion against the applicant that his conduct had not been above-board, it was open to the Regional Food Controller, Lucknow, to overlook it and the mere fact that the applicant's conduct was suspected did not mean that the Regional Food Controller, Lucknow, was bound to have the charges established and then dismiss him and could not terminate his services which were no longer required.

4. Under Article 226 of the Constitution the applicant can move a writ petition only if a legal right of his has been invaded for which he has no other adequate remedy. If the applicant was appointed as a temporary servant, the contract of service providing that the service was terminable on one month's notice and that contract of service has been terminated in accordance with its terms, the action of the opposite party being in accordance with the terms of the contract, it cannot be said that the opposite party had done anything illegal or that the rights of the applicant under the contract of service had, in any way, been affected.

5 In the circumstances, we do not think that there is any force in this application and it is, therefore, dismissed.