

Allahabad High Court

Usha Devi vs State Of U.P. And Others on 4 August, 2010

Court No. - 38

Case :- WRIT - A No. - 45261 of 2010

Petitioner :- Usha Devi

Respondent :- State Of U.P. And Others

Petitioner Counsel :- Kalp Nath Bind

Respondent Counsel :- C. S. C.

Hon'ble Shishir Kumar,J.

Heard learned counsel for the petitioner and learned Standing Counsel.

Petitioner is aggrieved by the order dated 29th April, 2010, by which the petitioner's appointment for the post of Aanganwari Karyakatri has been terminated only on the ground that she has submitted a forged certificate of Intermediate.

It appears that on the basis of some complaint, the enquiry was made and it was found that the forged certificate showing that the petitioner has passed 2nd division Intermediate has been placed before the authority concerned an enquiry to that effect was made and according to the respondents it was found that the forged certificate has been submitted showing that petitioner has passed the Intermediate Examination in second class though the petitioner has passed Intermediate examination in 3rd division. A show cause notice was given, to which the petitioner submitted her reply. Petitioner has denied that she has not submitted any marksheet or certificate of Intermediate. In case some certificate is on record, that cannot be taken into consideration to have been submitted by the petitioner. According to the petitioner, without considering the reply of the petitioner the order dated 29th April, 2010 has been passed without assigning any reason and without discussing the claim of the petitioner. According to the petitioner, four lines order has been passed without assigning any reason, therefore, there is clear presumption that authority at that time of passing the order has not applied its mind. It is settled in law that the Administrative authority while considering the claim of the person has to record reasons, if no reason has been recorded it will be presumed that order has been passed without application of mind.

I have considered the submission of the petitioner and learned Standing Counsel. Learned Standing Counsel is also not in a position to justify the reasonings given in the order impugned. In such circumstances, I am of the opinion that without inviting counter and rejoinder affidavits, this writ petition can be decided as ultimately result of counter and rejoinder affidavit will be the same. Therefore, with the consent of the parties the writ petition is disposed of finally.

I have perused the order impugned and found that while passing the order, the respondent has not recorded any reason while dismissing the claim of the petitioner. It is settled law, in view of the decision of Constitution Bench of the Apex Court, reported in AIR 1990 S.C. 1984, S. N. Mukherji versus Union of India, which held that the Administrative authorities are also bound to record the reasons while passing an order. If no reason has been recorded it will be treated to be an order of

non application of mind. From the perusal of the order it appears that the four lines order in a crepting manner has been passed, therefore, in my opinion that the order impugned cannot be sustained as such is hereby quashed.

The writ petition is allowed and the order dated 29.04.2010 annexure-9 to the writ petition is hereby quashed and the matter is remanded back to the respondent No. 3 to pass a reasoned order after according to law after giving full opportunity to the petitioner within a period of two months from the date of production of a certified copy of this order.

The writ petition is disposed of accordingly.

No order as to costs.

Order Date :- 4.8.2010 Sazia