

SATYA NARAYAN ATHYA
v.
HIGH COURT OF M.P. AND ANR.

A

NOVEMBER 24, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

B

M.P. Judicial Service (Classification, Recruitment and Condition of Services) Rules, 1955 : Rule 24(1).

Civil Judge—Training—Probation—District Judge Reporting need for improvement by Civil Judge—Discharge order by High Court during probation of Civil Judge—Ground—Non-satisfactory service—Order held valid—Charge and enquiry held not necessary.

C

M.P. Government Service (Temporary, Quasi-permanent Service) Rules, 1960 :

D

Civil Judge—Discharge from service—Validity of.

The petitioner, a Civil Judge, was put on probation for two years after completion of six months training. The Report of the District Judge indicated that he needed improvement in disposal of cases. As his performance was considered not satisfactory the High Court discharged him from service during the period of probation. The termination order was unsuccessfully challenged before the High Court. In appeal to this Court it was contended that petitioner's discharge was arbitrary.

E

Dismissing the petition, this Court

F

HELD : The High Court was justified in discharging the petitioner from service during the period of his probation. It is not necessary that there should be a charge and an enquiry on his conduct since the petitioner is only on probation and during the period of probation, it would be open to the High Court to consider whether he is suitable for confirmation or should be discharged from service. It is thus not a fit case warranting interference under Article 136 of the Constitution. [681-E-F]

G

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
No. 27178 of 1995.

H

A From the Judgment and Order dated 3.2.93 of the Madhya Pradesh High Court in L.P.A. No. 122 of 1985.

Ashok Mathur and Amitabh Verma for the Petitioners

The following Order of the Court was delivered :

B Delay condoned.

C The petitioner was appointed on probation as a Civil Judge by proceedings dated July 13, 1979. On completion of six months' period, he was put on probation with effect from February 16, 1980. Though two years' period had expired, no order of confirmation was issued and he continued on probation. In view of the non-satisfactory nature of the service, the Full Court decided that he could not be confirmed. Accordingly, orders were issued on August 5, 1983 discharging him from service under Rule 52(a) of M.P. Government Service (Temporary, Quasi-permanent Service) Rules, 1960. When the petitioner filed writ petition in the High Court, he was unsuccessful in Letters Patent Appeal, though he succeeded before learned single Judge. Thus this petition for special leave has been filed against the order of the Division Bench passed on February 3, 1993 in L.P.A. No. 122/85.

E The question, therefore, is whether the petitioner has to be deemed to have been confirmed after his completion of two years of probation. Rule 24(1) of the M.P. Judicial Service (Classification, Recruitment and Condition of Services) Rules, 1955, (for short 'the Rules'), provides thus :

F "Every candidate appointed to the cadre shall undergo training for a period of six months before he is appointed on probation for a period of two years, which period may be extended for a further period not exceeding two years. Thus probationers may, at the end of period of their probation, be confirmed subject to their fitness for confirmation and to having passed, by the higher standard, all such departmental examination as may be prescribed."

G A reading thereof would clearly indicate that every candidate appointed to the cadre shall undergo training initially for a period of six months before he is appointed on probation for a period of two years. On his completion of two years of probation, it may be open to the High Court either to H confirm or extend the probation. At the end of the probation period, if he

is not confirmed on being found unfit, it may be extended for a further period not exceeding two years. It is seen that though there is no order of extension, it must be deemed that he was continued on probation for an extended period of two years. On completion of two years, he must not be deemed to be confirmed automatically. There is no order of confirmation. Until the order is passed, he must be deemed to continue on probation.

It is contended on his behalf by the learned counsel for the petitioner that since the later record was found satisfactory as per the norms laid down by the High Court, the finding that his performance was not satisfactory is not correct. Therefore, his discharge from service is clearly arbitrary. We find no force in the contention. The Division Bench held that during the relevant period his performance was not satisfactory and that subsequent good or bad performance of the petitioner became meaningless. We find that the approach adopted by the High Court cannot be said to be unjustified. Even the strong reliance placed by the learned counsel for the petitioner on the report of the learned District Judge indicates that he needed improvement in disposal of the cases which would show that the Full Court of the High Court considered his performance as not satisfactory.

Under these circumstances, the High Court was justified in discharging the petitioner from service during the period of his probation. It is not necessary that there should be a charge and an enquiry on his conduct since the petitioner is only on probation and during the period of probation, it would be open to the High Court to consider whether he is suitable for confirmation or should be discharged from service.

It is thus not a fit case warranting our interference under Article 136 of the Constitution. The S.L.P. is accordingly dismissed.

T.N.A.

Petition dismissed.