

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

**HON'BLE SHRI JUSTICE SUSHRUT ARVIND
DHARMADHIKARI**

&

HON'BLE SHRI JUSTICE GAJENDRA SINGH

ON THE 2nd JULY, 2024

WRIT APPEAL No. 1080 of 2024

(SHYAM RATHORE

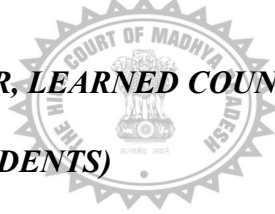
Vs

THE STATE OF MADHYA PRADESH AND OTHERS)

Appearance:

***(MS RACHANA ZAMINDAR, LEARNED COUNSEL FOR THE
PETITIONER).***

(NONE FOR THE RESPONDENTS)



Reserved on : 15.05.2024

Pronounced on : 02.07.2024

ORDER

Per: ***SUSHRUT ARVIND DHARMADHIKARI, J.***

Heard on the question of admission.

The present writ appeal under Section 2(1) of Madhya Pradesh Ucha Nyayalaya Khandpeeth Ko Appeal Adhiniyam, 2005 has been filed assailing the order dated 07.02.2024 passed in W.P. No. 31717/2023 by which the petition filed by the appellant herein was dismissed.

2. Brief facts of the case are that appellant's father, Late Shri

Kaluram had died of COVID-19 while discharging his duties during the COVID-19 Pandemic on 25.04.2021. Thereafter, appellant was appointed as a daily wage employee on 01.06.2021 in terms of the provisions of Chief Minister Covid-19 Compassionate Appointment Scheme[referred to as 'the Scheme' hereinafter]. The appellant performed his assigned duties, however on 01.09.2021, without assigning any reason, his employment was terminated through verbal communication without giving any opportunity of hearing thereby breaching the terms and conditions stipulated under the Scheme. The appellant submitted representation dated 08.11.2021, but to no avail as respondents neither have chosen to decide the representation of the appellant nor do they have reinstated him. Thereafter, appellant preferred a writ petition which was also dismissed. Hence, the present intra Court appeal has been filed.

3. Learned counsel for the appellant contended that the termination of the appellant is against the principle of law. He further submitted that learned Single Judge has erred in not considering the fact that no opportunity of hearing was given to the appellant and without assigning any reason through an oral order, his services have been termination thereby violating the principles of natural justice. Learned Single Judge has further failed to consider the fact that appellant's appointment was made under the Scheme issued by the Government to provide compassionate appointment to any one eligible member after the death of COVID-19 warriors who have been infected while serving during the COVID-19 Pandemic and, therefore, his termination is in complete violation of the said scheme. Learned Single Judge has not taken into account the fact that after the death of appellant's father, he is the sole bread earner in the family and due to his termination, he is in peculiar financial crises and his family is at the verge of starvation.

Hence, the order passed by the learned Single Judge be set aside and he shall be reinstated in service.

4. Heard, learned counsel for the appellant and perused the record.

5. By the appellant's own showing, he was granted compassionate appointment on account of death of his father in terms of Scheme floated by the Government during COVID-19 Pandemic to give respite to the members of those employees who died while serving during COVID-19 period.

6. It is not in dispute that appellant has not chosen to file a single document viz. his appointment order or order of termination in support of his claim for reinstatement either before the writ Court or before this Court. An identity Card issued in the name of Madhya Pradesh Shasan and signed by the Chief Municipal Officer has been filed, which also appears to be a sham document and does not at all give any right to the appellant to claim reinstatement.

7. Learned Single Judge while dismissing the writ petition has rightly held that there is no documentary proof filed by the appellant vouching his claim for reinstatement and, therefore, the same appears to be a matter of evidence to be adjudicated before the Labour Court and not before the writ Court.

8. In view of the aforesaid discussion, we are of the considered opinion that the learned Single Judge has rightly dismissed the writ petition by passing the order impugned which needs no interference by this Court.

9. In the result, appeal fails and is hereby dismissed at the admission stage itself.

(S.A. Dharmadhikari)
Judge

(Gajendra Singh)
Judge