

The Indian Law Reports

CIVIL MISCELLANEOUS

Before S. S. Dulat and Prem Chand, Pandit, JJ.

JAI DAYAL,—Petitioner

versus

THE STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ No. 1571 of 1963.

Constitution of India (1950)—Article 311—Whether applicable to an employee of the State Electricity Board.

1964

November, 24th

Held, that the State Electricity Board is a legal entity entirely separate from the State and, though the State Government has certain powers given to it under the Electricity (Supply) Act, 1948, that does not alter or affect the legal entity set up by the statute. Legally speaking the Board has a separate existence and it is not possible to equate it with a Department of the State and to say that the petitioner, being in the service of the Electricity Board, is in law in the service of the State. The petitioner is, therefore, not covered by the protection afforded to the servants of the State by Article 311 of the Constitution.

Petition under Articles 226/227 of the Constitution of India praying that a writ of certiorari, mandamus, or any other appropriate writ, order or direction be issued quashing the order of respondent No. 3 dated 24th July, 1963.

R. A. SAINI, ADVOCATE, for the Petitioner.

M. R. SHARMA, FOR THE ADVOCATE-GENERAL, H. R. SODHI, WITH L. K. SUD, ADVOCATE, for the Respondents.

ORDER

The following judgment of the Court was delivered by—

DULAT, J.—In this petition under Articles 226 and 227 of the Constitution the petitioner challenges the legality of an order, dated the 24th of July, 1963, by which he was reverted from the officiating post of Line Superintendent to his substantive post of Sub-station Attendant, and the

Dulat, J.

Jai Dayal
v.
The State of
Punjab and
others

Dulat, J.

ground taken in the petition is that this order was made in violation of Article 311 of the Constitution.

The petition was founded on the allegation that the petitioner who had joined the service of the Punjab State in 1954 was in November, 1962, transferred to the Punjab State Electricity Board, but remained all the same in the service of the State and the order made subsequently reverting him from the officiating post of Line Superintendent to the post of Sub-station Attendant was a punishment which could not have been imposed without any show-cause notice and inquiry contemplated by Article 311 of the Constitution. It turns out, however, that the facts are not true, because the return shows that the petitioner's services were never transferred by the State Government to the State Electricity Board and what actually happened was entirely different. The State Electricity Board having been constituted by a statute, the post held by the petitioner in the service of the State became unnecessary and that post was abolished and the petitioner's services under the State thus came to an end. The petitioner was, however, allowed to apply to the State Electricity Board for fresh employment and that Board took the petitioner into its own service. This is now admitted by Mr. Saini, so that it is now impossible for him to maintain that on the date of the disputed order the petitioner was in any sense in the service of the State. The main foundation of the petitioner's case thus disappears as it is obvious that Article 311 of the Constitution, the violation of which is relied upon by the petitioner, has nothing to do with this case. Mr. Saini in the circumstances urges, that the State Electricity Board is in fact a Department of the Government of Punjab and the petitioner being in the service of the Board should be deemed to be in the service of the State. To support this submission Mr. Saini points to certain provisions of the Electricity (Supply) Act, 1948., under which the State is given certain powers in respect of the State Electricity Board. Those provisions, however, do not affect the legal entity of the Board set up by the Act, for section 12 clearly says that the Board shall be a body corporate having perpetual succession, with power to acquire and hold property and capable of suing and being sued. It is obvious, therefore, that the State Electricity Board is a legal entity entirely separate from the

State and though the State Government has certain powers given to it under the Act that does not alter or affect the legal entity set up by the statute. It is clear, therefore, that legally speaking the Board has a separate existence and it is impossible to equate it with a Department of the State and, to say that the petitioner being in the service of the Electricity Board is in law in the service of the State. It follows that the petitioner is not covered by the protection afforded to the servants of the State by Article 311 of the Constitution and since the violation of that Article is the grievance raised in the petition it is impossible to afford any relief to the petitioner in these proceedings. The petition thus fails and is dismissed. In the circumstances, however, the parties are left to bear their own costs.

R.S.

Jai Dayal
v.
The State of
Punjab and
others

Dulat, J.