

(2002) 08 RAJ CK 0090

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4946 of 1997

Durga Shankar Sharma

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 14-08-2002

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F, 25F(A)

Citation : (2004) 1 RLW 584

Hon'ble Judges : Gyan Sudha Mishra, J

Bench : Single Bench

Advocate : Rajveer Sharma, for the Appellant; Mahendra Shandilya, for the Respondent

Final Decision : Dismissed

Judgement

Misra, J.—An award was passed against the petitioner by the Industrial Tribunal and labour Court Kota on 11.8.93 holding therein that the petitioner's appointment as a "Mistry" was made in Chambal Project for construction of R.P.S. Dam and the working of Dam having been completed, the services of the petitioner were terminated after giving him one month's notice in lieu of pay and hence no fault could be found with the order of termination.

2. The admitted case of the petitioner-workman is that his services were terminated by order dated 14.10.70 and it is further admitted by him which finds mention at para No. 6 of the impugned award that he had been appointed in the Chambal Project for construction of R.P.S. Dam and his services were terminated after completion of project, it is still further the admitted case of the parties that the petitioner filed an application for initiation of reference before the competent authority after 11 years of his termination on 12.10.81. In spite of this, long delay in filing the application for initiation of reference, the respondents passed an order in favour of the petitioner-workman for initiating the reference which was later transferred to the Labour Court cum Industrial Tribunal at Kota and the afore said award was passed upholding the termination of the petitioner. This

award was passed on 28th November 1993. The petitioner appears to have acquiesced with this award for almost three years but thereafter he filed this writ petition in the year 1996 challenging the award as illegal and unjustified.

3. A preliminary objection was raised by the respondents that this writ petition should not be entertained on the ground of delay and laches in view of the pronouncement of the Supreme Court reported in *Karnataka Power Transmission Corporation and Anr. v. Amalgamated Electricity Cl. Ltd. and Ors.* (1) as also on *Shiv Kumar and Ors. v. State of Haryana* (2), *Shiv Kumar and Ors v. State of Haryana* wherein the learned Judges of the Apex Court have ruled that the reference can be rejected on the ground of delay and laches if the workman has not taken steps promptly for redressal of his grievance.

4. Countering the submission of the counsel for the respondents, the petitioner's advocate submitted that the writ petition is not fit to be rejected on the ground of delay and laches and in support of his submission he also cited the Supreme Court authority reported in *Ajaib Singh v. Sirhind Cooperative Marketing Cum Processing Service Society Ltd. And Anr.* (3), apart from other authorities, on the plea that the respondents should not be permitted to take up this plea after the award was passed. On the merit also he addressed the court and submitted that the petitioner although was served with a notice regarding his termination in lieu of pay, the retrenchment compensation was not paid to him.

5. In so far as the ground of delay and laches is concerned, it is no doubt true that if the petitioner had acted promptly by filing the application for initiation of reference within a reasonable time and the authorities had taken long to decide his reference, the delay on his part perhaps could not have been attributed to the workman so as to disentitle him claim but it is an admitted position-as noted hereinbefore, that the petitioner filed the application for initiation of reference after more than 11 years of his termination and also filed the writ petition almost three years after passing of the award. It is difficult to accept that the petitioner in such a circumstances should be allowed to raise this plea and urge that delay and laches should not be a ground for dismissal of his claim, however, since the labour Court itself has not dismissed the claim on the ground of delay and laches, I have permitted the counsel for the petitioner to address this Court on the merits of the petitioner's claim also and in that context it could be noticed that the petitioner's appointment was for a particular project which is an admitted case of the petitioner himself and that project came to an end after which a notice was duly served on the petitioner u/s 25-F Clause -A and thereafter his services were terminated. In the aforesaid facts and situation of this case it is difficult to interfere with such order. The expectation of the petitioner therefore that this Court should interfere in a circumstance of this nature ignoring the delay and laches is beyond the ambit and scope of justice. This writ petition therefore on the ground of laches as also on merit, stands dismissed.