
(2011) 05 AHC CK 0340

In the Allahabad High Court

Case No : Special Appeal Defective No. 390 of 2011

Jagram

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 03-05-2011

Acts Referred:

Citation : (2011) 05 AHC CK 0340

Hon'ble Judges : R.K. Agrawal, J;Bharati Sapru, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The present appeal has been filed against the judgment and order dated 3rd March 2011 passed by the learned single Judge whereby the writ petition preferred by the present Appellant has been dismissed on the ground of material concealment and suppression of the factum of filing Writ Petition No. 15905 of 2003 wherein the relief for regularisation was not granted by this Court and the writ petition was dismissed. The learned single Judge had further imposed a cost of Rs. 50,000/-

2. We have heard Sri Lallan Prasad Pal, learned Counsel for the Appellant and the learned standing counsel, who represents the Respondents and have perused the impugned judgment and order dated 3rd March 2011 giving rise to the present appeal, the grounds taken in the memo of appeal and the documents filed along with it as the supplementary affidavit filed today.

3. Learned Counsel for the Appellant submitted that in Writ Petition No. 15905 of 2003 wherein the Appellant had sought regularisation of his service, the relief was claimed on the basis of seniority whereas in the writ petition giving rise to the present appeal, the relief was not claimed on the basis of seniority but on account of the fact that he is working as reflected by the Respondents' documents. The fact remains that while seeking regularisation in the writ petition giving rise to the present appeal, the Appellant deliberately did not mention the

factum of filing of the writ petition being Writ Petition No. 15905 of 2003 and its dismissal as also the dismissal in special appeal.

4. In this view of the matter, we are of the considered opinion that the learned single Judge had rightly dismissed the writ petition.

5. So far as the imposition of the cost of Rs. 50,000/- is concerned, the learned Counsel for the Appellant submitted that the Appellant is a daily wager and is a very poor person and is not in a position to pay the huge cost imposed by the learned single Judge.

6. Taking into consideration the aforesaid fact, we reduce the cost to Rs. 5000/-

7. The appeal is dismissed with the aforesaid observation.

Civil Misc. Delay Condonation Application No. 117496 of 2011

8. Heard learned counsel for the parties.

9. The short delay in filing the present appeal has sufficiently been explained in the affidavit filed in support of the application seeking condonation of delay. The application is allowed and the delay is condoned. The appeal be now treated as having been filed within limitation. Office is to give regular number.