

(2001) 09 RAJ CK 0010

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 12 of 1995

Jain Prakash Jain

APPELLANT

Vs

Raj. Fin. Corpn. and Others

RESPONDENT

Date of Decision : 13-09-2001

Acts Referred:

Citation : (2001) 4 RLW 388 : (2001) 3 WLC 687 : (2001) 4 WLN 689

Hon'ble Judges : AR. Lakshmanan, C.J;A.K. Parihar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

AR. Lakshmanan, C.J.—Heard Shri Prahlad Singh, for the appellant, and, Mr. Ajay Rastogi, for the respondents.

The unsuccessful petitioner in the writ petition is the appellant before us. The writ petition was filed, to quash the order dated 30.6.1984, issued by the respondent-corporation, with a direction to the said corporation, to reinstate the petitioner, with all consequential benefits, as if the impugned order had never been passed against the appellant. The order, dated 30.6.1984, has been marked as Exhibit-4. The said order reads thus:

"RAJASTHAN FINANCIAL CORPORATION Udyog Bhawan

Tilak Marg,

Jaipur-302 005

Ref: RFC/PA-12 (586) Dated 21st June, 1984

RFC/GN/PP/27/Estt/ Dated 30.6.1984.

Shri Jain Prakash Jain

Junior Assistant

Rajasthan Financial Corporation

Branch Office

SRIGANGANAGAR

ORDER

You were appointed on the post of Junior Assistant vide Office Order No. RFC/GAS (1) dated 10th November, 1982 initially on probation for a period of 6 months. The probation period was extended from time to time and extended period of probation expires on 30.6.1984 (As per Order No. PA-3(3)/6511 dated 22nd March, 1984).

On the expiry of extended period of probation your services are dispensed with w.e.f. 30th June, 1984 (afternoon) and relieved of your duties.

Sd/-

General Manager (A)

It is seen from the said order that the appellant was appointed on the post of Junior Assistant, vide order dated 10.11.1982, initially, on probation, for a period of six months, which was extended for a further period of probation, which expired on 30.6.1984. On the expiry of the extended period of probation, i.e., on 30.6.1984, the services of the appellant were dispensed with and he was relieved of his duties, vide the impugned order dated 21.6.1984.

2. It was contended before the learned Single Judge and also before us that the respondents have failed to comply with the Regulations 14 and 15 of the Rajasthan Financial Corporation (Staff) Regulations, 1958. Regulation 14 deals with period of probation, which reads as follows:

Period of probation: - An employee recruited to the Corporation's service shall be required to be on probation for a period which shall not be less than six months in case of employees of Classes B and C and not less than one year in case of Class A employees and may be extended upto 2 years or more if considered necessary. Regulation 15 deals with discharge during probation.

3. A reading of Regulation 14 would go to show that the period of probation shall not be less than six months, in case of employees of Classes B and C; and not less than one year, in case of Class A employees and may be extended upto two years, or more, if considered necessary. In the instant case, the appellant was given two extensions of six months' period. Regulation 15 says that if an employee is to be discharged from his service during the first month of his probationary period, his services can be terminated by issuing a seven days' notice by the Managing Director, or by payment of seven days' substantive pay in lieu thereof. During the rest of his probationary period, an employee may be discharged after one month's notice in that behalf, or by payment of substantive pay for one month in lieu thereof.

4. Shri Prahlad Singh, the learned Counsel for the appellant, contended that

since no notice was issued during the rest of his probationary period, the discharge of the appellant, or dispensing with his services, is bad in law. We are unable to countenance with this submission. As already noticed, the appellant was appointed initially, for a period of six months, and again, it was extended for a further period upto 30.6.1984. The appellant was allowed to work on probation upto 30.6.1984 and was relieved of his duties on the said date, i.e., the date of expiry of the extended of probation. Under such circumstances, since the services of the appellant were dispensed with on 30.6.1984 i.e., the last date of his probationary period, no notice need be issued. Rule 14 also specifically states that services of employees of the corporation may be extended upto two years, or more, if considered necessary. A reading of the impugned order dated 21.6.1984 would clearly show that this is only an order simpliciter, relieving of the appellant, of his duties on 30.6.1984.

5. It is argued by the learned Counsel for the appellant that the impugned order, passed by the respondent, is stigma on the service of the appellant and that, therefore, the respondents, before dispensing with his services, ought to have afforded an opportunity, to put forth his grievances. We have already referred to the order passed and impugned in this writ petition, which is an order of dispensing with the services of the appellant simpliciter. Nothing has been said in the said order that since the services of the appellant, were not found to be satisfactory, his probation period was not extended any further. It is settled law that parties shall not be allowed to improve their cases by filing affidavits, or by relying on some of the statements made here and there. It is also well settled that in case, rules do not make any provision for fixing any maximum period of probation, then, the employer has right to extend the period of probation, according to exigencies. In such cases, the employee will not get any right, on account of extension of the probationary period. The employer is free to exercise his right of dispensing with the services of a probationer, either during the continuance of his probationary period or at its end. No law requires reasons to be given, while dispensing with the services of a probationer. Shri Prahlad Singh has cited a decision in the case of Prithipal Singh Vs. State of Punjab and Others, . In that case, Hon"ble the Supreme Court has held that in case, there exists some material of misconduct and which is the foundation of passing of the order of discharge, in such circumstances, the order of discharge would be construed as "stigmatic". With due respect for the above judgment of Hon"ble the Supreme Court, we may say that the said judgment has no application to the case on hand. That judgment related to a temporary employee, and not a probationer.

6. We see no ground to interfere with the order, passed by the learned Single Judge. The appeal, therefore, fails and is dismissed. No costs.