
(2012) 10 RAJ CK 0037

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 90 of 2000

Kailash Chand Gurjar

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 25-10-2012

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2012) 4 WLN 479

Hon'ble Judges : Meena V. Comber, J;Ajay Rastogi, J

Bench : Division Bench

Advocate : Lokesh Sharma, for the Appellant; Lokendra Singh, for the Respondent

Final Decision : Dismissed

Judgement

Ajay Rastogi, J.—Instant intra-Court appeal arises out of the order dt. 11.03.1999 passed by the Id. Single Judge primarily on the pretext that the appellant worked for 17 months as a Cook on part time basis and admittedly as per his own allegations made in the writ petition, his services were terminated on 15.04.1995 and the writ petition came to be filed on 05.03.1999 almost after four years and since the delay & laches could not be satisfactorily explained by him, the writ petition was dismissed in limine. Counsel for appellant submits that the appellant joined his services as a Cook on part time basis on 22.11.1993 and worked upto 15.04.1995 and his services were terminated arbitrarily without compliance of the due process of law and since the writ petition No. 1851/1995 filed by him prior thereto regarding regular pay was pending consideration, he was under the bonafide belief that even if his services are dispensed with that will be taken note of while disposing of the said writ petition and immediately when he came across with the situation that the termination has to be independently assailed before the Court of law, the appellant approached this Court by filing writ petition No. 1156/1999 which came to be dismissed on the ground of delay by the Id. Single Judge vide order dt. 11.03.1999 which is

impugned in the instant appeal.

2. Counsel for the respondents, on the other hand, submits that even the initial appointment of the appellant was not in conformity with law, however, he worked for 17 months for intermittent period and as per the policy laid down by the State Government regarding regularization of such employees who were working on daily rated/part time basis as on 01.05.1995 with certain other conditions incorporated by the State Government under its scheme.

3. Admittedly, in the instant case, the appellant was not in service on the cut-off date i.e. 01.05.1995 and even otherwise, since his working was for 17 months for intermittent period and his appointment was not in conformity with the provisions of law, no right could be conferred in his favour and admittedly, as alleged by the appellant himself, his services were terminated on 15.04.1995 and the instant writ petition assailing termination came to be filed after almost four years on 05.03.1999, in absence of disclosure of any satisfactorily reason for causing delay in filing of the writ petition, there appears no error in the order passed by the Id. Single Judge which may require interference in the instant special appeal.

4. After going through the record and taking note of the submissions made, we are also of the view that the delay caused in filing of the writ petition of almost four years has not been satisfactorily explained by the appellant and once his services were terminated for whatsoever the reason on 15.04.1995, he had a remedy to approach the Court of law; and assailing after inordinate delay will certainly dis-entitled him in assailing the termination given effect from 15.04.1995.

5. We will further like to observe that the earlier writ petition No. 1851/ 1995 was decided on 31.07.1996 after 14 months of his termination the appellant was aware of the fact and if at all aggrieved by the order of termination, remedy could be availed which the law permits to him but admittedly he did not avail such remedy while apart from assailing the order by filing writ petition, remedy was available with the appellant to approach the industrial Court under the provisions of the Industrial Disputes Act, 1947. We will further like to observe that once the appointment of the appellant itself was no in conformity with the mandate of Art. 14 of the Constitution of India and he hardly worked for 17 months, as alleged, we will not like to exercise equitable jurisdiction even while sitting in the appeal and find no error in the order passed by the Id. Single Judge which may require interference.

Consequently, the special appeal fails and is hereby dismissed.