
(2003) 02 AHC CK 0098
In the Allahabad High Court
Case No : C.M.W.P. No. 6506 of 2003

Kumari Susheel	Vs	APPELLANT
Director, Bal Vikas Seva Evam Pushtahar and Others		RESPONDENT

Date of Decision : 11-02-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 2 AWC 1454

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : A.K. Tripathi, for the Appellant;

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—This writ petition was heard and dismissed by me on 11th February, 2003 for the reasons to be recorded later on. Here are the reasons for dismissing the aforesaid writ petition.

2. The petitioner, by means of this writ petition under Article 226 of the Constitution of India, has challenged the order dated 20th September, 2001 and the order dated 22nd September, 2001 (Annexures-6 and 7 to the writ petition) respectively.

3. According to the report of the Stamp Reporter, the petition ought to have been filed normally up to 31st December, 2001 but the petition was presented on 5th February, 2003. On the question of explaining the laches, learned counsel for the petitioner has stated that a number of persons, who are affected by the impugned order, have filed Civil Misc. Writ Petition No. 38480 of 2001 before this Court wherein this Court directed that the petitioner of Writ Petition No. 38480 of 2001 may file representation before the authority concerned and the authority concerned was directed to decide the same. Similarly another writ petition was filed i.e., Civil Misc. Writ Petition No. 1608 of 2002 which has been decided by this Court on 11.1.2002. Learned counsel for the petitioner has submitted that

pursuant to the direction issued by this Court, the petitioners of the aforesaid two writ petitions filed their representation and by the order dated 7th November, 2002 on the respective representations, they have been retained in service as Angan Bari Karyakatri/ Assistant with the condition that they will be paid their emoluments only from the date of joining and after passing of the aforesaid order dated 7th November, 2002, the petitioner filed this writ petition that since other candidates, whose selection and appointment as Angan Bari Karyakatri/ Assistant has been decided along with the petitioner and as stated above, approached this Court by means of the aforesaid writ petition and as a consequence of the order passed by this Court, referred above, they have been reappointed in service, the impugned orders, Annexures-6 and 7 to the writ petition, so far as it relates to the petitioner deserves to be quashed and the petitioner is entitled to be taken back in service.

4. Learned counsel for the petitioner on a question being put that how he will explain laches in filing the writ petition in the year 2003 wherein the impugned order were passed in the year 2001, he submitted that the petitioner was awaiting the result of the writ petition referred to above and thereupon the consequence of the orders passed by this Court, it is only when the respondents have taken back the petitioners of the aforesaid writ petition in service, she has filed the writ petition now. It is settled that one who sleeps over his right cannot take benefit of others litigation. [See : Ashok alias Somanna Gowda and Another Vs. State of Karnataka by its Chief Secretary and Others, The Apex Court has ruled as under :

"In view of the fact that appointments under the impugned Rules were made as back as in 1987 and only the present appellants had approached the Tribunal for relief, the case of other candidates cannot be considered as they never approached for redress within reasonable time. We are thus inclined to grant relief only to the present appellants who were vigilant in making grievance and approaching the Tribunal in time."

5. In this view of the matter, the petitioner cannot take benefit of the litigation. referred to above, particularly of the orders passed by this Court and the consequential orders passed by the authorities pursuant to the direction issued by this Court.

6. No other point has been argued. In this view of the matter, the petition is highly belated and as earlier held that the petitioner cannot take benefits of the orders referred to above in the writ petition filed by others, this petition is, therefore, devoid of merits and it is accordingly dismissed.