

(2015) 03 MAN CK 0012
In the Manipur High Court
Case No : Writ Petition (C) No. 623 of 2008

Loitongbam Jugeshor Singh

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 26-03-2015

Acts Referred:

Citation : (2015) 03 MAN CK 0012

Hon'ble Judges : Laxmi Kanta Mohapatra, C.J.; N. Kotiswar Singh, J.

Bench : Division Bench

Advocate : Binoykumar, for the Appellant; A. Vashum, G.A., Advocates for the Respondent

Final Decision : Dismissed

Judgement

Laxmi Kanta Mohapatra, C.J.—Subject matter of challenge in this writ application is the order dated 20th June, 1988 Annexure-A/5 passed by the District Medical Officer, Senapati terminating the service of the petitioner under Sub-rule (1) of Rule 7 of the Central Service (Temporary Service) Rules, 1965.

2. The petitioner was initially appointed temporarily as Peon by order of the Administrative Officer, Medical Department, Manipur dated 30.12.1970. Thereafter, he was transferred to different places. On 28.4.1988 the District Medical Officer, Senapati issued a Memorandum asking the petitioner to explain his absence from duty. The petitioner submitted his reply on 6.5.1988, Annexure-A/3/1 stating therein that he could not attend office due to some personal work at his residence and prayed for grant of admissible leave. Again, he wrote another letter in Annexure-A/4 stating therein that he could not attend office due to illness of his child. Since explanation was not acceptable to the District Medical Officer, Senapati, the order of termination was passed by him on 20th June, 1988.

3. Shri Kh. Binoykumar Singh, learned counsel appearing for the petitioner, challenging the order of termination, submitted that in terms of Rule 3 of the 1965 Rules, prior to its amendment in 1989, a Govt. Servant shall be deemed to

be in quasi permanent service if he has been in continuous temporary service for more than 3 years. Referring to the above provision, it was contended that the petitioner having been appointed in the year 1970, after completion of 3 years of service as a temporary employee, he shall be deemed to be a quasi- permanent employee. Referring to Rule 7 of 1965 Rules, it was further contended that in case of a quasi-permanent employee, an order of termination can only be passed in the manner a Government servant in permanent service is terminated and therefore a departmental enquiry was necessary to be initiated before terminating the service of the petitioner. It was also contended that if a departmental proceeding is to be dispensed with, adequate reasons must be assigned for dispensing with the departmental enquiry.

4. The learned State counsel, Mr. A. Vashum, raised a preliminary objection with regard to the maintainability of the writ petition twenty years after the order of termination was passed.

5. In view of the admitted fact that the impugned order of termination passed in the year, 1988 and this writ application has been filed in 2008, Court is required to look into the explanation given by the petitioner for such long and inordinate delay in filing the writ petition. The petitioner has made an attempt to explain the delay by filing some medical certificates in Annexure-A/6 series. On perusal of the Medical Certificates, it appears that the petitioner was suffering from "paranoid schizophrenia" and was under treatment. None of the medical certificates shows that he had been advised bed rest. He was only advised to check up periodically. Therefore, there was no reason for the petitioner to challenge the order of termination twenty years after the same was passed. The disease from which he was suffering could not have prevented him from filing a writ petition challenging the order of termination from service.

Law is well settled that long and inordinate delay in filing the writ petition, if not explained to the satisfaction of the Court, should not be entertained and must be dismissed on ground of delay and laches. On examination of the Medical Certificate and the reasons stated earlier, we are of the view that there has been 20(twenty) years of delay in filing the writ petition and such a long and inordinate delay has not been explained by the petitioner to the satisfaction of the Court. Reference be made to decisions of the Apex Court in the case of Bhoop Singh Vs. Union of India and others, in which delay of twenty two years in challenging the order of termination without cogent explanation was not entertained. Similar view has also been taken in the case of Mohan Kumar Singhania v. Union of India reported in AIR (S.C.) 1, Life Insurance Corporation of India and Others Vs. Jyotish Chandra Biswas, , Sudhir Vishnu Panvalkar Vs. Bank of India, .

6. We, therefore, instead of going into the merit, dismiss the writ petition on ground of delay and laches on the part of the petitioner.