

(2019) 07 UK CK 0255

In the Uttarakhand High Court

Case No : Writ Petition No. 308 Of 2019 (S/B)

Manoj Bhatt

APPELLANT

Vs

Principal Secretary Department Of Training And Technical
Education Government Of Uttarakhand And Others

RESPONDENT

Date of Decision : 30-07-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 07 UK CK 0255

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Navnish Negi, Paresh Tripathi, Bhupesh Kandpal

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. Heard Mr. Navnish Negi, learned Advocate for the petitioner, Mr. Paresh Tripathi, learned Chief Standing Counsel for the State of Uttarakhand, and Mr. Bhupesh Kandpal, learned counsel for respondent Nos. 3 and 4.

2. The petitioner has invoked the jurisdiction of this Court seeking a writ of certiorari to quash the order dated 14.12.2011, and a writ of mandamus commanding the respondent-authorities to consider re-instating the petitioner in the post of Lecturer (Biotechnology) in the Department of Biotechnology, G.B. Pant Institute of Engineering and Technology, Pauri Garhwal as a regular employee, with all consequential service benefits, as per the governing rules as applicable in the State of Uttarakhand.

3. Facts, to the limited extent necessary, are that the petitioner was appointed as a Lecturer (Biotechnology) in the department of Biotechnology, G.B. Pant Institute of Engineering and Technology, Pauri Garhwal against a substantive vacancy, and after due process of selection, on 27.01.2006. With the permission of the Institute, the petitioner appeared for selection to the post of Assistant

Registrar in Guru Gobind Singh Indraprastha University, Dwarka, New Delhi in the year 2009, and was selected to the said post on 26.11.2009. He was relieved from the Institute on 01.01.2010 and, consequently, joined duty as an Assistant Registrar at the Indraprastha University, Dwarka on 04.01.2010.

4. Though the petitioner had sought extra-ordinary leave from the G.B. Pant University for a period of three years, he was granted extra-ordinary leave only for three months. The three month extra-ordinary leave period expired on 04.04.2010. The petitioner sought extension of extra-ordinary leave and, as it was not granted, he sought to resume duty in the post of Lecturer (Biotechnology) after a period of 02 years. The petitioner was directed, by letter dated 23.11.2011, to join the Institution on or before 15.12.2011. The petitioner claims to have resigned from his post of Assistant Registrar in August, 2011, w.e.f, 01.09.2011, in order to join duty at G.B. Pant Engineering College within the stipulated time.

5. It is the petitioner's case that the University at Dwarka refused to release him till 30.12.2011, and the same was communicated to the G.B. Pant Engineering College. The petitioner's services were terminated by the Board of Governors by resolution dated 14.12.2011. The petitioner, evidently after he was relieved from the University on 30.12.2011, submitted a representation on 04.01.2012 seeking cancellation of the order of termination. He was informed, by letter dated 03.02.2012, that he would be reinstated on a temporary basis till the Board of Governors took a decision in the matter.

6. The petitioner commenced working in the Institute as a temporary Lecturer on 16.02.2012 and continued to work as such till 26.09.2012 when he resigned from the post of Lecturer. The petitioner, thereafter, appears to have had a change of heart, and claims to have submitted several representations seeking withdrawal of his resignation. On the ground that his request for withdrawal of resignation was not accepted, the petitioner has now invoked the jurisdiction of this Court, under Article 226 of the Constitution of India, by way of present writ petition filed on 30.06.2019 i.e. nearly 7 years after he claims to have withdrawn his resignation on 26.09.2012. Except to state that he had been making repeated representations, no other explanation is forthcoming for the inordinate delay and laches in invoking the jurisdiction of this Court.

7. In the State of M.P. Vs. NandlalJaiswal:(1986) 4 SCC 566, the Supreme Court observed:

".....Now, it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent of the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay

is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction....."

(emphasis supplied)

8. Though the writ petition is liable to be dismissed on the sole ground of inordinate delay and laches; we are also satisfied that the petitioner has not made out any case for interference even on merits. The petitioner was granted extra-ordinary leave for three months. He, however, continued to work as an Assistant Registrar in the Guru Gobind Singh Indraprastha University Dwarka, New Delhi for nearly two years, even without being sanctioned extraordinary leave beyond three months. Even after being informed that his services would be terminated if he failed to join on or before 15.12.2011, the petitioner did not join duty at the Institute on the plea that he was not relieved from the University till 30.12.2011. By the time he was relieved from the University, his services had been terminated by the Institute. His request for cancellation of the termination order was acceded to, subject to approval of the Board of Governors, and he was reinstated as a lecturer, albeit on a temporary basis.

9. After having worked for seven months, the petitioner then chose to resign from his post and, even without his resignation being accepted, he left the services of the respondent-College. More than six years after having left the Institute in September, 2012, the petitioner now seeks a direction to the respondents to accept his request for withdrawal of his earlier resignation. While claiming that he had submitted representations for withdrawal of his resignation six months later, the petitioner chose not to invoke the jurisdiction of this Court till the present writ petition was filed on 30.06.2019. The petitioner's attitude appears to be that the post of Lecturer (Biotechnology), in the respondent-College, is available for his joining for the mere asking, and he can join the post whenever he chooses, and to resign therefrom at his choice. The flip-flop attitude exhibited by the petitioner would not justify any direction being issued to the respondent to take him back in the post of Lecturer (Biotechnology), both on the ground of inordinate delay & laches and on merits. We see no reason, therefore, to entertain this writ petition.

10. The writ petition fails and is, accordingly, dismissed. No costs.