

(2020) 09 RAJ CK 0026

In the Rajasthan High Court

Case No : Special Appeal Writ No. 552 Of 2019 In Civil Writ Petition No. 5956 Of 2016

Pooran Singh

APPELLANT

Vs

Rajasthan State Road Transport Corporation And Ors

RESPONDENT

Date of Decision : 09-09-2020

Acts Referred:

Industrial Disputes Act, 1947 — Section 10A

Citation : (2020) 09 RAJ CK 0026

Hon'ble Judges : Sabina, J;Chandra Kumar Songara, J

Bench : Division Bench

Advocate : Anshuman Saxena, Vinayak Kumar Joshi

Final Decision : Allowed

Judgement

Appellant has filed this appeal challenging the order dated 21.01.2019 passed by the learned Single Judge, whereby the writ petition filed by the petitioner was dismissed on the ground that he had efficacious alternative remedy to raise an Industrial Disputes under Section 10-A of the Industrial Disputes Act, 1947.

Learned counsel for the appellant has submitted that the learned Single Judge has erred in dismissing the writ petition filed by the appellant. In-fact, the termination order was stigmatic in nature as it has been stated that the integrity of the appellant was questionable. In similar circumstances, writ petition filed by a similarly situated employee-Sunita was dismissed by the learned Single Judge. In an appeal (D.B. Special Appeal Writ No.812/2017) filed by Sunita, Division Bench of this Court allowed the appeal vide order dated 24.10.2017. The said order was upheld by the Hon'ble Supreme Court vide order dated 27.09.2019.

Learned counsel for the respondents has fairly conceded that the present case is covered by the decision given by this Court in D.B. Special Appeal Writ No.812/2017 and as upheld by the Hon'ble Supreme Court.

Order dated 24.10.2017 passed in D.B. Special Appeal Writ No.812/2017 reads

as under:-

"1. Heard learned counsel for the parties.

2. Vide impugned order dated 03/04/2017 the writ petition filed by the appellant has been dismissed on the reasoning that the appellant has an efficacious alternative remedy to raise an industrial dispute under Section 10 of the I.D. Act, 1947.

3. The order terminating services of the appellant, while the appellant was on probation, is clearly stigmatic inasmuch as it uses the expression that the integrity of the appellant was questionable. In the decision reported as 2008 WLC (Rajasthan) 485, Ram Gurjar versus RSRTC, a Division Bench of this Court noted that in view of the law declared by the Supreme Court where termination was stigmatic and principles of natural justice were violated merely because there was an alternative remedy, was no ground to refuse to exercise writ jurisdiction.

4. In our opinion, directions which were required to be issued by the learned Single Judge, were the same as was directed by the Division Bench of this Court in aforementioned decision.

5. We dispose of the appeal setting aside the order dated 29/06/2015 terminating the appellant's service. The appellant shall be reinstated within 30 days from today. She will not be entitled to any back wages. The respondents are permitted to hold a proper disciplinary inquiry against the appellant."

Order dated 27.09.2019 passed by the Hon'ble Supreme Court in Special Leave to Appeal (C) No.4894/2018 (I.A. No. 137225/2018) reads as under:-

"Heard learned counsel for the parties.

We have perused the original office order in Hindi which uses the double negative to suggest that the integrity is questionable.

Thus, the impugned order being stigmatic in character, it cannot be treated as a simple case of non-continuation of service during probation.

The Special Leave Petition is dismissed.

Pending application stands disposed of."

In view of the above orders, this appeal is allowed.

Impugned order dated 29.05.2015 terminating the services of the appellant is set aside. The appellant shall be reinstated in service within 30 days from today. Appellant will not be entitled to any back wages. The respondents are permitted to hold a proper disciplinary inquiry against the appellant, if so advised.