
(2003) 05 RAJ CK 0018

In the Rajasthan High Court

Case No : Civil Revision Petition No. 1222 of 1996

Rajasthan State Road Transport Corporation

APPELLANT

Vs

Ugam Chand and Another

RESPONDENT

Date of Decision : 01-05-2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 47

Citation : (2003) 4 RLW 2650 : (2003) 3 WLC 232

Hon'ble Judges : Harbans Lal, J

Bench : Single Bench

Advocate : N.K. Maloo, for the Appellant; B.L. Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Harbans Lal, J.—The instant revision petition u/s 115 C.P.C. is directed against the order dated 24.4.1996 passed by the learned Civil Judge (JD), Jaipur in Execution Case No. 13/95 thereby dismissing the petitioner's objections u/s 47 C.P.C.

2. The relevant facts in short are that non-petitioner No. I was appointed as a driver with petitioner Rajasthan State Road Transport Corporation On 2.3.1989 on probation when it came to light that he had obtained appointment by fraud and mis-statement before the selection committee as he was not having the experience of 3 years of driving passenger vehicle and was not having licence of driving passenger vehicle for last three years, the matter was got investigated through Director, Security & Vigilance. This fact being found correct, his services were terminated on 16.2.1991. He challenged the said order by filing civil suit in the court below seeking declaration that the order of his termination passed on 16.2.1991 was illegal. The suit was contested by and on behalf of petitioner, but ultimately it was decreed on 29.4.1995 declaring the aforesaid order as illegal and against the principles of natural justice. He was also ordered to be reinstated with all consequential benefits. Non-petitioner No. I filed an application for execution of the aforesaid decree in which warrant of attachment was issued.

The petitioner filed objections u/s 47 C.P.C. contending that decree of the civil court was a nullity being without jurisdiction and that the suit was only for declaration and no relief with regard to payment of back wages was prayed for and could be granted. Another objection was that the decree was in-executable. The said application was dismissed vide impugned order. Hence, this revision.

3. I have heard learned counsel for the parties and have also perused the record.

4. Learned counsel for the parties have pointed out that this court has dismissed R.S.R.T.C. v. Shanker Lal Tank (1), decided on 2.8.2002 on the basis of a Division Bench judgment of this court in the case of R.S.R.T.C. and Anr. v. Om Prakash (2). It is a common ground between the parties that the facts of this case are akin to the facts of D.B. Civil Revision Petition No. 599/95 and similar contentions were raised in the aforesaid case before the Hon"ble Division Bench of this Court. In that case it has been held that "it all depends on the facts of the case whether a decree for setting aside a wrongful dismissal is maintainable or not but against the State or a statutory Corporation, once a decree is passed setting aside a wrongful dismissal, the Civil Court retains a jurisdiction to grant reinstatement with consequential reliefs. However, the question raised is whether on the present state of affairs, a decree against the present petitioner R.S.R.T.C. is maintainable or not. The Hon"ble Division Bench answered this question in the affirmative and held that if the order of dismissal or removal from service is found not in accordance with law the same can be quashed and set aside by the Civil Court. So far as the objection with regard to in- executability of the decree was concerned, the Hon"ble Division Bench has after distinguishing the case of R.S.R.T.C. and Anr. v. Ladulal Mali (3), and the case of State of U.P. and Anr. v. Atal Behari Shastri and Anr. (4), has clearly held that where only declaratory relief without consequential relief of monetary benefits was passed, the Executing Court had rightly refused to grant relief. But in the instant case, the trial Court had not only passed the decree of declaration, but had also directed that the petitioner be reinstated in service with all consequential back wages and thus, the authority of the Hon"ble Apex Court in the case of R.S.R.T.C. v. Ladu Lal Mali (supra) was clearly distinguishable on facts.

5. Thus, the present case is squarely covered by the aforesaid Division Bench judgment of this court and in view of the aforesaid judgment, this revision petition is without merit and substance. It cannot be said that the court below has committed any illegality, impropriety or material irregularity in exercise of its jurisdiction so as to warrant and justify interference therein by this court in its revisional jurisdiction.

6. The revision petition, therefore, deserves to be and is hereby dismissed.