

(2011) 08 AHC CK 0058

In the Allahabad High Court

Case No : Civil Miscellaneous Review Application No. 26843 of 2003, Civil Miscellaneous Correction Application No. 652 of 1997 and Civil Miscellaneous Writ Petition No. 555 of 1984

Ramjee Raman

APPELLANT

Vs

Banaras Hindu University and Others

RESPONDENT

Date of Decision : 30-08-2011

Acts Referred:

Citation : (2011) 9 ADJ 584 : (2012) 1 AWC 229

Hon'ble Judges : Sunil Ambwani, J;Kashi Nath Pandey, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. We have heard Shri G.N. Verma, learned counsel for the petitioner, as well as Shri Ram Jee Raman-the petitioner in person.

2. This application signed by the petitioner appearing in person seeks to review the order dated 4.12.2002, by which the application filed by the petitioner-applicant to correct the judgment and order dated 15.7.1996 in Writ Petition No. 555 of 1984 (Ramjee Raman v. The Banaras Hindu University and others), was rejected.

3. The correction application No. 652 of 1997 filed on 8.1.1998, was dismissed on 4.12.2002, both on the ground that it was moved after a delay of one and half years and that during the course of submission, learned counsel for the applicant-petitioner could not point out any clerical or arithmetic error in the judgment.

4. The petitioner had earlier filed a Writ Petition No. 10922 of 1975 challenging the order of the Vice Chancellor of the Banaras Hindu University, Varanasi, as communicated to him by the letter of the Deputy Registrar (Academic) dated 1.10.1975 terminating petitioner's appointment and debarring him from holding any position in the University. By the judgment dated 13.11.1975 Hon'ble Mr.

Justice K.N. Singh (as he then was) quashed the order on the ground that the petitioner was not given reasonable opportunity under Statute 31, of the Statutes of the University to show-cause for the action which was proposed to be taken against him which is also applicable to a temporary teacher. The Court did not accept the argument of learned counsel appearing for the University that the petitioner's examination of B.Sc. 2nd year was cancelled on the ground that he was found guilty of using unfair means and this fact was concealed by him. The petitioner had explained the circumstances under which his examination was cancelled. The Court did not find it necessary to decide the question. The Court held that even if the petitioner's examination was cancelled and even if he was guilty of using unfair means in the graduate examination, he was entitled to an opportunity to show-cause against the action proposed and since this was not done the order cannot stand scrutiny on the violation of principles of natural justice.

5. There is nothing on record to show that thereafter the petitioner was given any opportunity in compliance of the judgment in his favour. After about one and half years on 23.7.1977, the petitioner was given temporary appointment for six months or till further orders, whichever is earlier. His temporary appointment was without prejudice to the final settlement of his case by the University and the Court. He was not allowed to continue as temporary teacher in discriminating, with other temporary teachers whose services were extended till the end of the academic session upto May 13, 1978 and even thereafter. The petitioner was not allowed to serve after 31.1.1978.

6. The petitioner filed a Writ Petition No. 555 of 1984. On 3.8.1984 an interim mandamus was issued to respondent No. 1 and to consider and dispose of his representation within one month. The representation was decided and rejected by the Vice-Chancellor on 18.8.1984. The writ petition was finally heard and decided on 15.7.1996. It is stated in paragraph-3, of the correction application dated 6.1.1998 that the petitioner filed a SLP No. 24208 of 1996 which was dismissed on the ground that he should file a proper application for correction of the factual errors in the judgment. In pursuance thereof the petitioner filed an application on 8.1.1998, which was rejected as above on 4.12.2002.

7. The petitioner has pointed out several errors in the judgment with regard to the date of his appointment; failure to abide by the express terms and conditions of the letter of appointment dated 23.7.1977; the discrimination with the petitioner, in not extending his appointment beyond 31.1.1978; the defiance of the order of the High Court; the violation of Banaras Hindu University Act, 1915; the Statutes and Ordinances; the statement of fact in the judgment that while admitting the writ petition an interim mandamus was issued, whereas the interim mandamus was issued much later and non-adjudication of petitioner's case in pursuance to the judgment of this Court delivered on 13.11.1975 in Writ Petition No. 10922 of 1975.

8. It is submitted that the Writ Petition No. 555 of 1984 was dismissed by this

Court without mentioning the earlier judgment delivered by Hon''ble Mr. Justice K.N. Singh (as he then was) on 13.11.1975, and further the grounds taken in the writ petition namely that the judgment of this Court in the earlier writ petition, by which the order of the Vice-Chancellor communicated to the petitioner on 1.10.1975, was quashed, was never complied with. The petitioner was given temporary appointment after one and half years subject to final settlement of his case, which was never done. The petitioner was thereafter discriminated, with other temporary teachers, who were allowed to continue and were finally appointed through the selection committees. It is submitted that this Court did not discuss the reasons given in the order of the Vice Chancellor. On 18.8.1984 the Court found that the disclosure of reasons is sufficient and that the reasons do not suffer from any error, whereas it did not even refer to the reasons given by the Vice-Chancellor.

9. We find that the contentions raised by the petitioner are not unfounded. The University did not decide the petitioner's case finally in compliance with the judgment of this Court dated 13.11.1975, and further that the Court did not discuss the challenge to the reasons given by the Vice-Chancellor.

10. Be that as it may, we are of the opinion that a review petition to review the order by which the petitioner's correction application was rejected, is not an appropriate remedy for his grievances. The correction application was filed one and half years after the judgment was delivered, and that this review application No. 26843 of 2003 was also filed on 4:4.2003 four months after the correction application was rejected.

11. The Rules of the Court do not permit to review the order by which the correction application was rejected. A review application is maintainable where there is an error apparent on the face of record. When the Court did not find any error in its judgment, the petitioner is not entitled to any relief by review of such order.

12. The application is rejected.