

(2022) 02 DEL CK 0229

In the Delhi High Court

Case No : Civil Writ Petition No. 3516 Of 2022

Rohit Shukla

APPELLANT

Vs

DGMS (Army)

RESPONDENT

Date of Decision : 28-02-2022

Acts Referred:

Citation : (2022) 02 DEL CK 0229

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; Neena Bansal Krishna, J

Bench : Division Bench

Advocate : Bhagwan Swarup Shukla, Sarvan Kumar

Final Decision : Dismissed

Judgement

D.N. Patel, CJ

C.M.No.10352/2022 (exemptions)

Allowed, subject to all just exceptions.

The application is disposed of.

W.P.(C) 3516/2022

1. This so-called Public Interest Litigation has been preferred seeking following reliefs:-

"i. Issue a writ in the nature of mandamus or any other appropriate writ/s, order/s, direction/s directing the Respondent to decide the Representation dated 17.11.2021 of the Petitioner forthwith within a stipulated time period, with a written intimation to the present Petitioner. And/Or;

ii. Pass any other or further order/s or direction/s as this Hon'ble Court deems fit and proper be also awarded to the Petitioner and against the Respondents, in the interest of justice."

2. We have heard petitioner appearing in person.

3. Looking to the facts and circumstances of the case, it appears that this is not a Public Interest Litigation at all.

4. This is a revenge taking type of writ petition. Petitioner appearing in person submits that Shri Karamvir Singh was appointed as a Junior Commissioned Officer and at the time of his appointment, the details supplied by him were factually incorrect and therefore by way of this Public Interest Litigation, this petitioner is in search of cancellation of the appointment of Karamvir Singh from the employment given by the respondent.

5. We see no reason to entertain this writ petition much less as a public interest litigation for the following facts, reasons and judicial pronouncements:-

(i) The appointment is given by the respondent to one Shri Karamvir Singh. The said employee is not joined as a party respondent in this writ petition. As his appointment is to be cancelled, no writ petition can be allowed in absence of a candidate or an employee, whose employment is sought to be terminated. Such employee is an essential party to the litigation and he ought to be heard by this Court. For the reasons best known to this petitioner, Shri Karamvir Singh, whose employment is under challenge, is not joined as a party respondent. Hence, we see no reason to entertain this writ petition.

(ii) Moreover, the employment was given to Karamvir Singh by the respondent in the year 2015. The writ petition has been preferred in the year 2022, hence there is gross unexplained delay on the part of the petitioner in filing this writ petition.

(iii) Public Interest Litigation in a purely service matter of the present nature for the termination of the services is not tenable at law. The law on this aspect is no longer res integra and we may refer to the observations of the Hon'ble Supreme Court in the following pronouncements: -

(a) Vishal Ashok Thorat and Others vs. Rajesh Shrirambapu Fate and Others, 2019 SCC OnLine SC 886 – Para's 18 & 38

(b) Central Electricity Supply Utility of Odisha v. Dhobei Sahoo, (2014) 1 SCC 161 – Para 14.1.

(c) Hari Bansh Lal vs. Sahodar Prasad Mahto and Ors., (2010) 9 SCC 655 2010 - Para 20.

(d) Gurpal Singh vs. State of Punjab, (2005) 5 SCC 136 - Paras 7 and 12.

6. As a cumulative effect of the aforesaid facts, reasons and judicial pronouncements, there is no substance in this writ petition.

7. In view of the aforesaid, we do not see any reason to entertain this writ petition. The same is accordingly dismissed with costs of Rs.25,000/- to be paid by the petitioner to the Delhi State Legal Services Authority within four weeks from today. The aforesaid amount shall be utilized for the programme 'Access to

Justice'.

8. A copy of this order be sent forthwith to the Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi- 110001.