
(2000) 09 RAJ CK 0069
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2738 of 1991

Satya Narain

APPELLANT

Vs

Rajasthan Housing Board and Others

RESPONDENT

Date of Decision : 25-09-2000

Acts Referred:

Constitution of India, 1950 — Article 136, 226

Citation : (2001) 1 WLN 656

Hon'ble Judges : B.S. Chauhan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.S. Chauhan, J.—The instant writ petition has been filed for seeking the relief of regularisation as well as payment of salary in the minimum of the pay scale of the post of Driver.

2. The facts and circumstances giving rise to this case are that petitioner joined the service on daily wages as Driver with the respondents on 2.4.1990 and his services had been terminated with effect from 16.6.1991. Hence this writ petition.

3. This writ petition was filed on 7.6.1991 and this Court granted interim relief, vide order dated 13.6.1991, directing respondents not to terminate the services of petitioner if it had not already been terminated. Admittedly, service of the petitioner stood terminated with effect from 31.5.1991 (Annx. R.5). Petitioner had received the letter of termination on the same day and endorsed it. Subsequently, petitioner filed a fresh application on 1.6.1991 (Annx. R.7) requesting that he may be offered re-employment on contract basis. If he was fully aware of the fact that his services stood terminated with effect from 31.5.1991 and the order of termination was served upon him and he made an application on 1.6.1991 for entering into contract with the respondents, he could not claim the aforesaid reliefs either of regularisation or minimum of the pay scale in view of the judgments of the Hon'ble Supreme Court in Himachal

Pradesh Housing Board Vs. Om Pal and others, ; and Ramchander and Others Vs. Additional District Magistrate and Others, , wherein the Apex Court held that after termination of service, relief of regularisation and equal pay for equal work cannot be sought, unless the order of termination itself is challenged and quashed by the Court. Petitioner has not challenged the order of termination, therefore, I am of the prima facie view that this writ petition is not maintainable nor the interim order passed by this Court may come to the rescue of petitioner.

4. Mr. Mridul, learned Senior Advocate, has submitted that even if petitioner is not entitled for regularisation, his case for payment of minimum of the pay scale on the post of Driver can be considered as petitioner has been working under the interim order of this Court dated 13.6.1991.

5. Mr. P.C. Sharma, learned Counsel for respondents, has vehemently opposed it submitting that this Court issued the interim order directing respondents not to terminate the services of the petitioner if it had not already been terminated. Moreso, Mr. Sharma has submitted that petitioner has not approached this Court with clean hands and he is not entitled for any relief whatsoever, Petitioner has suppressed the material fact that his services stood terminated on 31.5.1991 and he had been served with the copy of termination order and a receipt was obtained from him as Annexure R/5. He himself made an application (Annx. R/6) subsequently to give him employment on contract basis and he had entered into the contract with his eyes open. Whatever may be the legal position, even if petitioner should have been given the minimum of the pay scale of the post of Driver, he is not entitled for any relief for the reason that he had abused the process of the Court and suppressed the material fact that he had been served with the termination order, he had received it and made an application to give an employment on contract basis and he had been reemployed on the terms stipulated by him in the application.

6. On the contrary, Mr. Mridul has further placed reliance upon the communication of the Department dated 31.5.1991 written by the Deputy Commissioner, Housing Board, Udaipur to the Secretary, Rajasthan Housing Board, Jaipur, wherein it has been mentioned that his services may be required till the elections of Parliament were over.

7. The inter-departmental proceedings are for the understanding and working of the Department and cannot be relied upon by the parties. In the instant case, petitioner had been served with the termination order, he received and endorsed the same and made an application for employment on contract basis which was given to him and all these facts have been suppressed by the petitioner. Therefore, the submission made by Mr. Sharma is not without substance.

8. it is settled proposition of law that when a person approaches the Court of Equity in exercise of its extraordinary jurisdiction under Article 226 of the Constitution, he should approach the Court not only with clean hands but with clean mind, clean heart and clean objective also. (Vide The Ramjas Foundation

and Others Vs. Union of India and Others, and K.R. Srinivas Vs. R.M. Premchand and Others, . Thus, there should be no suppression of material facts by the litigants.

9. In G. Narayanaswamy Reddy (dead) by L.Rs. and another Vs. Government of Karnataka and another, , the Apex Court observed as under:

It is well settled in law that the relief under Article 136 of the Constitution is discretionary and a petitioner who approaches this Court for such relief must come with frank and full disclosure of facts. If he fails to do so and suppresses material facts, his application is liable to be dismissed.

10. In Welcom Hotel and Others Vs. State of Andhra Pradesh and Others, the Apex Court held that if a party obtained an interim order by misleading the Court, it would be disentitled for any relief in equity jurisdiction. A Constitution Bench of the Hon''ble Supreme Court, in Naraindas Vs. The Government of Madhya Pradesh and Others, , has held as under:

Now, there can be no doubt that if a wrong or misleading statement is deliberately and wilfully made by a party to a litigation with a view to obtain a favourable order, it would prejudice or interfere with the due process of judicial proceeding and, thus, amounts to contempt of Court.

11. Similar view has subsequently been reiterated by the Apex Court in Advocate-general, State of Bihar Vs. Madhya Pradesh Khair Industries and Another, ; and Delhi Development Authority Vs. Skipper Construction and Another,

12. In Jai Kumar Vs. State of M.P., the Hon''ble Supreme Court has observed as under:

Justice is supreme and justice ought to be beneficial for society so that the society is placed in a better situation. Law Courts exist for the society and ought to rise up to the occasion to do the needful in the matter and as such ought to act in a manner so as to subserve the basic requirement of the society.

13. In State of Punjab Vs. Baldev Singh, the Hon''ble Supreme Court observed as under:

In every case, the end result is important but the means to achieve it must remain above board. The remedy cannot be worse than the disease itself.

14. In the instant case, the manner in which petitioner has represented his case and took the pleas by suppressing the material facts, makes him completely disentitled for any relief whatsoever.

15. Petition is accordingly dismissed. There shall be no order as to costs.