

(2013) 10 KAR CK 0265
In the Karnataka High Court
Case No : W.A. No. 5816 of 2013 (S)

Smt. C.R. Sumana

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 28-10-2013

Acts Referred:

Citation : (2013) 10 KAR CK 0265

Hon'ble Judges : D.H. Waghela, C.J;S.N. Satyanarayana, J

Bench : Division Bench

Advocate : G.G. Chagashetty, for the Appellant;

Final Decision : Dismissed

Judgement

S.N. Satyanarayana, J.—The unsuccessful writ petitioner in W.P. No. 4260/2003 (S) has come up in this appeal impugning the order dated 13.07.2007. This appeal is filed with an inordinate delay of 2232 days. Hence, I.A.I/2013 is filed seeking condonation of said delay. Heard the learned Counsel for the Appellant on the aforesaid application. Perused the affidavit filed in support thereof. In the affidavit, appellant admits that the writ petition filed by her was disposed of by order dated 13.07.2007 and the same was communicated to her by her Counsel by letter dated 20.07.2007. However, it is her case that the said communication did not reach her and it is only on 05.09.2013, when she got in touch with her Advocate, she came to know about the dismissal of writ petition on 13.07.2007. Barring this, there is nothing on record to show acceptable and genuine reason for condonation of inordinate delay of 2232 days. Except making a feeble assertion that on 05.09.2013, when she got in touch with her Counsel, she came to know about it, no acceptable explanation is offered by her.

2. Admittedly, the said writ petition was filed in the year 2003. In normal circumstances, the writ petitioner would be in touch with her Counsel on regular basis. To say that she did not contact her Counsel to check regarding the status of the case till 2013 is highly unbelievable. Hence, this Court find that no

reasonable ground is made out to condone the inordinate delay of 2232 days and therefore, the application seeking condonation of delay is required to be dismissed in limine. However, considering the fact that the appellant herein is seeking relief of reinstatement in her service as Lecturer, based on the decision rendered by the Apex Court in the matter of Karnataka State Private College Stop-Gap Lecturers Association Vs. State of Karnataka and Others, , merits of the case are also looked into to ensure that no miscarriage of justice is caused by dismissing the application to condone delay of 2232 days.

3. On going through the impugned judgment with reference to grounds of appeal and aforesaid judgment of the Apex Court, it is seen that in the instant case, the appellant was admittedly appointed as Lecturer in fifth respondent -- College on 10.09.1988 for a period of three months. There is nothing on record to show that the said appointment was subsequently renewed. The material on record would show that from 12.03.1991, the appellant herein herself discontinued her service with the fifth respondent, voluntarily and on health grounds and thereafter, she is trying to seek the benefit of the order of the Apex Court and trying to reclaim her job, which was voluntarily abandoned by her. On going through the impugned judgment, it is seen that the fifth respondent -- College is taken over by the Government in the year 1995. The said College has excess staff in Zoology department for which subject, she was appointed temporarily in the year 1988, that the said branch was already having one excess staff, when it was taken over by the Government and the same position continued when she filed writ petition in the year 2003 seeking reinstatement on the basis of aforesaid judgment of the Apex Court. On going through the merits of the case with reference to the judgment relied upon, the case of the appellant would not fall within any of the clauses referred to in paragraph No. 7 of the said judgment. Therefore, learned single Judge, on appreciating the merits, appears to have rightly dismissed the writ petition. In the aforesaid circumstances, even if inordinate delay of 2232 days is condoned, no grounds appeared to be available to admit this writ appeal. As observed supra, except stating that the appellant did not receive the communication sent to her by her Counsel on 20.07.2007, there is nothing on record to demonstrate that in fact, the appellant was not aware of the fact that writ petition in W.P. No. 4260/2003 was disposed of on 13.07.2007 and that she came to know about that only on 05.09.2013.

Accordingly, the application filed in I.A.I/2013 seeking condonation of delay of 2232 days is dismissed. Consequently, the Writ Appeal also stands dismissed.