

(2016) 01 RAJ CK 0180

In the Rajasthan High Court

Case No : Civil Special Appeal (W) No. 1094 of 2015

State of Rajasthan

APPELLANT

Vs

Amarnath Purohit

RESPONDENT

Date of Decision : 13-01-2016

Acts Referred:

Consumer Protection Act, 1986 — Section 10
Rajasthan Service Rules, 1951 — Rule 337

Citation : (2016) 3 WLN 396

Hon'ble Judges : Mr. Govind Mathur and Ms. Nirmaljit Kaur, JJ.

Bench : Division Bench

Advocate : Mr. P.R. Singh, Addl. Advocate General with Mr. Dinesh Ojha, Advocate, for the Appellant; Mr. M.R. Singhvi, Sr. Advocate with Mr. Hukam Singh, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

1. The appeal is barred by 226 days.
2. Having considered the facts of the case, we have examined merits of the dispute ignoring the delay caused.
3. By the order impugned dated 13.2.2015, the learned Single Bench accepted the writ petition preferred by the respondent-petitioner in light of the law laid down by Full Bench of this Court in State of Rajasthan & Ors. v. Shyam Sundar Gupta & Ors., reported in RLW 2003(4) Raj.2081.
4. By challenging the judgment impugned, the only argument advanced by the learned counsel for the appellant is that the respondent-petitioner attained the age of superannuation on 31.1.1995. Therefore, though he was entitled for the pay scale relating to the post held by him at the time of retirement but no other benefits could have been extended as the instant one is a case of subsequent employment to the retirement.
5. In brief, facts of the case are that the respondent-petitioner, a member of

Rajasthan Higher Judicial Services was posted as President, District Consumer Forum under an order dated 2.6.1994. He attained the age of superannuation on 31.1.1995. Taking into consideration this fact, he was discontinued from the office of President, District Consumer Forum on 7.3.1995.

6. Being aggrieved, he preferred a petition for writ, that came to be accepted by this Court on 11.8.1997 holding therein that the respondent-petitioner being appointed as President, District Consumer Forum during currency of his regular services, his appointment as President, District Consumer Forum cannot be treated as a re-employment. It was also held that Rule 337 of Rajasthan Service Rules, 1951 does not apply to the respondent-petitioner in its strict sense.

7. In pursuance to the directions given, the respondent-petitioner was re-employed and also allowed to continue as President, District Consumer Forum till completion of employment i.e. 05 years. The respondents after completion of the term of service of the respondent-petitioner as President, District Consumer Forum did not revise the pay scales as per Pay Scale Rules, 1998 those came into force on 1.9.1996. The increments and dearness benefits were also not awarded as per the revised pay rules.

8. Being aggrieved by the same, the respondent-petitioner again approached this Court by filing a petition for writ, that came to be accepted by the judgment impugned. Prior to that, the same issue came before a Division Bench of this Court and that was referred for its adjudication to Larger Bench with following questions:-

"1. Whether President, consumer Forum gets salary of a District Judge?

2. If a person already in service is appointed as President, Consumer Forum, he will continue to get the same salary till he reaches the age of superannuation provided under the Rajasthan Higher Judicial Service Rules?

3. After date of retirement from the Higher Judicial Service's, if the person still continues as President of the Consumer forum to complete the tenure provided under the Act, whether he will continue to get the same salary last drawn by him or usual salary of a District Judge plus the pension for which he was otherwise entitled for after his due retirement as member of Higher Judicial Services?

4. During the tenure as President of Consumer Forum whether a person can be treated as member of Higher Judicial Services even after he reaches the age of superannuation so as to entitle him to all the benefits of services for the remaining period of his tenure as President, Consumer Forum?

5. Whether there can be any re-employment of President, Consumer Forum during the fixed tenure, if the person appointed as President while in service, after his retirement from the services?

6. What is the status of a member of RHJS who is appointed as President. District Forum while in the RHJS and continuing as such after his superannuation in the

RHJS?

7. whether aforesaid appointment of a member of RHJS at any stage can be reckoned as "reemployment" or whether it is to be held as "statutory appointment"?

9. From perusal of questions No.3 and 4, it is apparent that the issue sought to be agitated by the respondent-petitioner was considered by the Full Bench and was answered as under:-

"51....."

(3) A person who has been appointed as President of the District Consumer Forum while in Rajasthan Higher Judicial Service on his retirement from the Rajasthan Higher Judicial Service, he will get the last drawn salary which he was getting on the date of his superannuation from Rajasthan Higher Judicial Service minus pension which he gets on retirement from Rajasthan Higher Judicial Service.

(4) A person who has been appointed as President of the District Consumer Forum while in Rajasthan Higher Judicial Service, on his superannuation from Rajasthan Higher Judicial Service, he cannot be treated as member of the Rajasthan Higher Judicial Service after his superannuation from Rajasthan Higher Judicial Service though he will get all the benefits and allowances which RHJS officers gets till his completion of the tenure in District Consumer Forum, but pension has to be deducted from his salary.

....."

10. From perusal of the judgment given by the Full Bench and the answer to the reference made, it is apparent that the issue sought to be agitated by the State by giving challenge to the directions given by the learned Single Bench is no more res integra and the State is under obligation to adhere the directions given by the Full Bench after adjudicating the questions No.3 and 4. Whatever relief given by the learned Single Bench, that is in consonance with the law laid down by the Full Bench of this Court in the case of State of Rajasthan & Ors. v. Shyam Sunder Gupta and Ors. (supra).

11. In view of it, the judgment impugned does not suffer from any wrong, that may warrant interference in appellate jurisdiction.

12. The appeal therefore, is dismissed.