

(2014) 12 RAJ CK 0157

In the Rajasthan High Court

Case No : Civil Restoration Application No. 232/2014 in Civil Special Appeal
(Writ) No. 429/2014

State of Rajasthan

APPELLANT

Vs

Satish Kumar

RESPONDENT

Date of Decision : 09-12-2014

Acts Referred:

Citation : (2014) 12 RAJ CK 0157

Hon'ble Judges : Sunil Ambwani, Acting C.J.;Prakash Gupta, J

Bench : Division Bench

Advocate : Raghuraj Kanwar, Government Counsel, Advocate for the Appellant

Judgement

1. The cause shown for non-appearance on 30.7.2014 was found to be good and sufficient. The restoration application is allowed. The Special Appeal is restored to its original number and was heard.

2. The services of the respondents as Teachers were terminated on the ground that their degrees could not be verified from Lalit Narayan Mithila University, Darbhanga, Bihar. The University could not verify the degrees as the records of the University were sealed by the Central Bureau of Investigation.

3. The respondents filed writ petitions challenging the termination of their services, which were allowed on 30.11.1999/30.5.2000 with the following directions:-

"(i) It is hereby directed that all certificate, degree or diploma claimed to be equivalent to B.S.T.C. and acquired prior to 15.5.1997 are liable to be considered for grant of appointment to the post of Teacher Grade III in accordance with the advertisement issued in June, 1998.

(ii) The respondents are directed to reconsider the entire recruitment process after giving consideration to the persons not considered for the above reasons and prepare a fresh list of merit and if they so desire issue fresh appointments in

accordance with the list so prepared.

(iii) All the notices terminating the services of such Teachers for holding such certificate, diploma or degree for such institutions covered by Section 17(4) of the Act or whose certificate, diploma or degree could not be verified by the State are hereby quashed. It is further directed that the State shall always have the right to investigate into each and individual certificate diploma or degree so tendered for consideration and it have the right to terminate the services of such individuals whose degrees, diploma, or certificates are found to be either fraudulent or not in conformity with the direction at one above and terminate the services for such reasons. If in pursuance to the notices hereinbefore quashed consequential terminations have been factually effected, the same are also hereby quashed and the persons so terminated are directed to be reinstated. There will be no order as to costs."

4. Pursuant to the orders passed by the Court, the termination orders were revoked and the petitioners were issued appointments on 20.12.2000, however, the petitioners and their likes were not assigned seniority from the dates of their initial appointment. They were treated to be re-appointed and not reinstated in service.

5. In the circumstances, the persons similar to them approached this Court by way of filing S.B. Civil Writ Petition No. 6844/2003 Rishi Deo and six others vs. State of Rajasthan & ors., which was allowed on 15.7.2005 with the following directions:-

"For the reasons mentioned above the present Writ Petition is allowed and the Respondents are directed to fix the salary of the Petitioners and assign seniority to the Petitioners from the date of initial appointment i.e. 1.7.99. The Respondents are also directed to pay arrears of salary from the date of reappointment, consequent upon fixation of their salary notionally while counting their services from the date of their initial appointment."

6. This intra-court Special Appeal filed by the State of Rajasthan is directed against the judgment by which the Court has directed it to count the petitioners services and fix their salary notionally from the date of their initial appointment.

7. Learned Single Judge in the judgment giving rise to this Special Appeal, has held that after the termination of services of the petitioners were quashed by this Court, a positive direction was given for their reinstatement in service and the period during which they remained out of job, cannot be treated to be break in service so as to deny the benefits of past services altogether. Since the similarly situated persons were given the benefits of past services, the writ petition was allowed with the directions as follows:-

"The respondents are directed to fix the salary of the petitioners and assign seniority to them treating them to be in continuous service from the date of their initial appointment. The petitioners shall not be entitled for actual benefits from

the date of termination till their reappointment consequent upon the fixation of their salary being made pursuant to this order. However, the difference of salary payable to them, after their reappointment in service consequent upon notional fixation of their salary while counting their services from the date of their initial appointment, shall be paid to them within a period of two months from the date of receipt of certified copy of this order. No order as to costs."

8. It is submitted by learned counsel appearing for the appellants that the qualification certificates could not be verified on account of the fact that the records of the University were sealed by the CBI. The respondents could not be allowed to continue in employment unless their qualification certificates were verified. There were strong doubts and presumptions that the certificates were fraudulent, on which their services were terminated and that even if the Court had set aside the termination orders, they could at best be reappointed and re-employed.

9. We do not find any force in the submission, inasmuch as, the reasons for which the qualification certificates could not be verified by the University, cannot be attributed to the respondents. Learned counsel for the appellants is not in a position to say as to whether the records of the University were subsequently de-sealed and the certificates have been verified, and or the efforts were made by the appellants to approach the CBI Court for permission to verify the certificates.

10. In the aforesaid circumstances, we do not find any error in the judgment of learned Single Judge in which he held after setting aside the orders of termination, the respondents had to be reinstated in employment and not re-employed by issuing afresh appointment order and accordingly, they cannot be denied the benefit of past services. There is no merit in the Special Appeal.

11. The Special Appeal is accordingly dismissed.