

(1985) 05 RAJ CK 0004
In the Rajasthan High Court
Case No : Civil Second Appeal No. 281 of 1976

State of Rajasthan

APPELLANT

Vs

Suraj Bhan

RESPONDENT

Date of Decision : 03-05-1985

Acts Referred:

Citation : (1986) RLW 75 : (1986) 1 WLN 165

Hon'ble Judges : G.M. Lodha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Guman Mal Lodha, J.—This second appeal is directed against the judgment of District Judge, Ajmer confirming the judgment of Additional Civil Judge, Ajmer in Civil Suit No. 120 of 1968/59 of 1967.

2. The plaintiff who is a low paid employee filed a suit for declaration and arrears of Rs. 5,427.73. He is Assistant Teacher at Ajmer. According to the plaintiff, since he has given his option under Rule 12 of the Rajasthan Service (Protection of Service Conditions) Rules, 1957 and then he passed his B.A. Examination in 1957, he became entitled to be fixed in the time scale of trained graduate Grade-II of 115-250 with effect from July 1, 1957. In spite of repeated representations the proper fixation was not done and he was assured that proper action is being taken.

3. The defendant contested the suit, although they admitted that he, has passed B.A. Examination in 1957.

4. The trial court after recording the evidence did not grant full relief to the plaintiff, but only allowed him trained graduate Grade-II with effect from July 1, 1961 and declaration was granted also in his favour. The decree was for Rs. 2,577.54.

5. The defendant filed appeal, which was dismissed. In this second appeal Mr.

Sharma, appearing for the State has pressed the point of limitation only. According to him the suit was time barred.

6. It is most surprising and shocking that the State functionaries filed second appeals in High Court against petty employees like Assistant Teachers and against petty decrees of about Rs. 2,500/-, on technical ground of limitation. In *Madras Port Trust v. Hymanshu International by its proprietor V. Venkatadri (Dead) by Lrs.* the Hon"ble Supreme Court has deprecated this practice and termed it as immoral and unjust to defeat the just claims of citizens.

7. Functioning under the Constitution which is to provide justice, social and economic, it is most shocking that such litigation is entered into by the Government functionaries and relief is not given at the departmental level. Even when two courts have found in favour of a petty employee, he has been dragged to the High Court. The most unfortunate aspect is that from 1961 to 1985 he had to undergo the ordeal of representations after representations and then litigation after litigation.

8. Even on merits I find that there is no case for treating the suit as time barred. The First Appellate Court has correctly held, that the suit was filed within time and there is apparently no reason to take a contrary view.

9. The result of the above discussion is that the appeal fails and is dismissed with costs.