

(2010) 09 RAJ CK 0020

In the Rajasthan High Court

Case No : Civil Miscellaneous Stay Application No. 08926 of 2009 in Civil Special Appeal (Writ) No. 08926 of 2009 in Civil Writ Petition No. 6 of 2001

The District Collector (L.R.)

APPELLANT

Vs

Vijai Kumar Arora and Others

RESPONDENT

Date of Decision : 24-09-2010

Acts Referred:

Citation : (2010) 09 RAJ CK 0020

Hon'ble Judges : Jagdish bhalla, C.J; Mohammad Rafiq, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal has been preferred by the State of Rajasthan against the judgment of the learned Single Judge dated 12/3/2008 allowing thereby writ petition filed by the respondent. In the writ petition, respondent had prayed for quashing the orders dated 17/7/1999 and 19/7/2000 and has further prayed that he be granted benefit of second selection scale w.e.f. 18/4/1992 with all consequential benefits. Appeal is barred by limitation and has been filed with delay of 506 days whereas, prescribed period of limitation is 60 days. In order to satisfy ourselves as to the propriety of condonation of delay, we have looked into the contents thereof whether or not the State was prevented by sufficient cause from filing appeal within time and also on merits. As per the reasons assigned, we find that application is devoid of any reason muchless, any sufficient cause explained by the appellant as to why they could not file appeal even after expiry of one & half years from the date of the judgment. What has been stated is that certified copy of the impugned judgment was forwarded to the Head of the Department and the State Government by the officer-in-charge along with opinion given by the concerned Government Counsel and the appeal was filed when the Government decided to file appeal. But, the enormous delay has not been explained. Application for condonation of delay is therefore liable to be rejected.

2. On merits otherwise also, we find that the learned Single Judge in allowing the writ petition found that on account of mere penalty of censure, benefit of second selection scale could not be denied or delayed to the respondent, who was Patwari and for grant of second selection scale to him, he did not require any special skill and such benefit was admissible soon on completion of period of 18 years of service if within the last span of last 9 years, he was not granted promotion. Learned Single Judge in allowing the writ petition has relied on Division Bench judgment of this Court in *Devi Singh v. State of Rajasthan and Ors.* (D.B. Civil Special Appeal No. 350/2000 reported in WLN UC 2004 327).

3. Impugned judgment, even otherwise, does not suffer from any infirmity so as to warrant our interference.

4. This special appeal is therefore dismissed.

5. Consequent upon dismissal of the appeal, this stay application does not survive and the same is accordingly rejected.