

(2011) 09 KAR CK 0195
In the Karnataka High Court
Case No : Writ Appeal No. 3529 of 2011

The Managing Director Karnataka State Seeds Corporation
Ltd.

APPELLANT

Vs

Sri C.K. Amaresh

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Citation : (2011) 09 KAR CK 0195

Hon'ble Judges : Vikramajit Sen, Acting C.J.; A.S. Bopanna, J

Bench : Division Bench

Advocate : R.S. Hegde, for the Appellant; Jagadeeshachari, for the Respondent

Final Decision : Dismissed

Judgement

Vikramajit Sen, A.C.J.

1. This appeal assails the order of the learned Single Judge who, taking note of the acquittal of the Respondent in criminal proceedings initiated by the Appellant, has ordered reinstatement of the Respondent without backwages, but with continuity of service.

2. Before us, it is pointed out that the Respondent had a temporary appointment and therefore acquittal would have no bearing on the rival stances. We have perused the notice dated 11.04.1996, which reads as under:

As per the appointment order No. KSSC/ADM/PER/ 2244/92-93 dated 26.05.1992 you are working in the Corporation as Seed Production Assistant since 20.08.1992 on consolidated salary basis.

As per the office order No. KSSC/ADM/11515/94-95 dated 28th Dec. 1995 your term of appointment closed on 07.04.1996. Since you have misappropriated the Corporation's funds and properties as per Clause-3 of the appointment order, your temporary appointment automatically ceased on 07.04.1997.

3. It is evident therefore that the services of the Respondent were terminated on

the alleged ground of misappropriation by indicating an artificial date of closure of appointment. It is not in dispute that a disciplinary/domestic enquiry had not been conducted on the alleged charge of misappropriation, but the criminal proceedings culminated in acquittal. Consequent upon the acquittal of the Respondent, there was no alternative in law, but to reinstate the Respondent into service.

4. It is next contended on behalf of the Appellant that the dismissal took place in 1996, but the writ petition was filed in 2009 and as such, neither reinstatement nor continuity should be granted. Learned Counsel for the Respondent drew our attention to the fact that the acquittal order came to be passed on 10.03.2005. Immediately thereafter, the Respondent had addressed a communication to the Appellant/employer praying for his being taken back into service. It was only when no action was taken, that the writ proceedings were filed. Even on the second ground of alleged laches, we find no merit more particularly in a circumstance where the backwages has been denied.

5. The third point raised before us is that continuity of service should not have been ordered. In this context, we reiterate that the termination of the Respondent's services were not based on the contract between the parties nor was it a termination simplicitor. If that was predicated on alleged misappropriation, in the event it was found that no case had been made out accordingly, it was arguable whether backwages should have been granted or not. That finding has not been assailed by the Respondent. Though reliance was placed on offer of appointment to contend that it was temporary, the fact that the Respondent had been continued from 26.05.1992 till the alleged charge of misappropriation cannot be in dispute. In the circumstances, we find that the order directing continuity of service is not only legal, but is required in the circumstances of the case.

The appeal is devoid of merits. Dismissed.

In view of the dismissal of the main writ appeal, Misc. W. Nos. 8155/2011 and 8154/2011 do not survive for consideration.