

Smt. Asha Devi Vs. Chief General Manager, State Bank of India and ors.

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SooperKanoon Citation : sooperkanoon.com/495026

Court : Allahabad

Decided On : Mar-20-2007

Reported in : [2007(113)FLR869]

Judge : S.P. Mehrotra, J.

Appellant : Smt. Asha Devi

Respondent : Chief General Manager, State Bank of India and ors.

Advocate for Def. : Shri. A.K. Misra

Advocate for Pet/Ap. : Shri. R.L. Sharma

Judgement :

S.P. Mehrotra, J.

1. Heard Shri R.L. Sharma, learned Counsel for the petitioner (Smt. Asha Devi), and Shri A.K. Misra, learned Counsel for the respondents.

The aforementioned Recall/Modification Application has been filed on behalf of Smt. Asha Devi (petitioner), inter alia, praying for recalling/modifying the order dated 13th September, 2002 passed by the dismissing the writ petition (namely, Civil Misc. Writ Petition No. 31319 of 2002), as not pressed.

From a perusal of the record of the aforesaid writ petition, it appears that

Civil Misc. Application No. ...of 2002 (dated 13.9.2002) was filed on behalf of the petitioner (Smt. Asha Devi), inter alia, praying for dismissal of the writ petition as not pressed. The said application was supported by an affidavit, sworn by Smt. Asha Devi (petitioner) on 13.9.2002.

2. By the order dated 13.9.2002, the writ petition was dismissed as not pressed in view of the statement made by the learned Counsel for the petitioner as well as in view of the averments made in the aforementioned Civil Misc. Application No. ...of 2002 (dated 13.9.2002) and its supporting affidavit.

It was, inter alia, observed in the said order dated 13.9.2002. 'no liberty' is being granted to the petitioner to file afresh writ petition on the same cause of action.'

The aforementioned Recall/Modification Application has now been filed on behalf of the said Smt. Asha Devi (petitioner), inter alia, praying for recalling/ modifying the said order dated 13th September, 2002. The aforementioned Recall/Modification Application is supported by an affidavit of Smt. Asha Devi (petitioner).

3. From a perusal of the averments made in the said affidavit accompanying the aforementioned Recall/Modification Application and the annexures to the said affidavit, it appears that Sanjay, son of the said Smt. Asha Devi (petitioner), was appointed in the Bank on probation on 12.4.2003 with the condition that he would maintain his family. It is further evident from the averments made in the said affidavit that the services of the said Sanjay were terminated by the Bank by its order dated 8.1.2004.

It is submitted by Shri R.L Sharma, learned Counsel for Smt. Asha Devi (petitioner) that after the termination of the services of the said Sanjay, the petitioner (Smt. Asha Devi) now wants to get appointment in the Bank and therefore, the order dated 13th September, 2002 passed in the writ petition (namely Civil Misc. Writ Petition No. 31319 of 2002) be recalled and the writ petition be considered on merits.

4. Having considered the submissions made by Shri R.L. Sharma, learned Counsel for the petitioner (Smt. Asha Devi), I am of the opinion that there is no good ground or sufficient reason for recalling or modifying the said order dated 13.9.2002. The said order dated 13 September, 2002 was passed on the basis of the statement made by the learned Counsel for the petitioner as well as on the basis of the averments made in the aforesaid Civil Misc. Application No. ...of 2002 (dated 13.9.2002) and its accompanying affidavit.

As regards the observation made in the said order dated 13th September, 2002, namely, 'no liberty is being granted to the petitioner to file a fresh writ petition on the same cause of action', the said observation did not grant any liberty to the petitioner to file a fresh writ petition on the same cause of action, as was pleaded in the said writ petition, namely, Civil Misc. Writ Petition No. 31319 of 2002.

5. In case, any fresh cause of action arises subsequent to the said order dated 13.9.2002 entitling the petitioner to seek relief in appropriate forum, the said observation would not come in the way of the petitioner seeking relief in respect of such fresh cause of action.

In view of the above, the aforementioned Recall/Modification Application is liable to be rejected, and the same is accordingly rejected.

It is made clear that I have not adjudicated upon the merits of the claim made by the petitioner for appointment after the termination of the services of the said Sanjay as the same will be adjudicated upon in appropriate proceedings.