

Sher Singh Vs. the General Manager and ors.

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Court : Delhi

Decided On : Aug-08-2007

Reported in : (2008)ILLJ161Del; 2008(2)SLJ366(Delhi)

Judge : Hima Kohli, J.

Acts : Indian Penal Code (IPC) - Sections 420 and 468

Appeal No. : Writ Petition (C) No. 5518/2007

Appellant : Sher Singh

Respondent : The General Manager and ors.

Advocate for Def. : Rajat Arora and ; M.K. Datta, Adv.

Advocate for Pet/Ap. : Francis Paul, Adv

Disposition : Petition dismissed

Judgement :

Hima Kohli, J.

1. The present writ petition has been filed by the petitioner praying inter alias for directions to the respondent to revoke the suspension of the petitioner and reinstate him in service with full back wages as also to compensate the petitioner for his malicious prosecution for 22 years.

2. The brief facts of the case, as set up by the petitioner in the present writ petition, are that the petitioner was working as a Peon with the respondent bank since the year 1983. It may be noted that the records do not reflect any letter of appointment issued by the respondent Bank in favor of the petitioner. It is stated that in the year 1985, the Manager of the respondent bank lodged a complaint being FIR No. 343/85 with Police Station, Darya Ganj against the petitioner under Sections 420/468 of the Indian Penal Code.

3. It is contended that after the FIR was lodged, the petitioner was placed under suspension and that the respondent Bank neither issued any charge- sheet to the petitioner nor was any show cause notice given to him. It is further stated that the petitioner was not even paid any subsistence allowance pursuant to his suspension and that though the petitioner has remained under suspension for the past 22 years, but till date, no charge-sheet has been issued to him nor has any domestic inquiry been conducted against him.

4. Upon being asked as to what steps were taken by the petitioner in all these years with regard to payment of subsistence allowance and as against the purported inaction on the part of the respondent Bank pursuant to the suspension of the petitioner, there is no satisfactory answer offered on behalf of the petitioner except for referring to the judgment dated 28th April, 2007 passed by the Court of Metropolitan Magistrate, Delhi in FIR No. 343/85. There is also no answer to the query as to what steps were taken by the petitioner against the respondent bank with regard to his purported illegal suspension for the past 22 years.

5. As per the aforementioned judgment passed by the learned Metropolitan Magistrate, the petitioner was given benefit of doubt and was acquitted of the charges.

6. It is settled proposition of law that in service jurisdiction, stale claims ought not be entertained. The present proceedings suffer from gross delay and laches on the part of the petitioner. The delay in taking recourse to a legal remedy for the last 22 years, remains unexplained. There is not a whisper in the petition, much less any documents on record, to indicate as to what steps did the petitioner take for pursuing his claim against the respondent bank for the past 22 years. To simply

state that the petitioner was awaiting the outcome of the criminal proceedings, is meaningless as remedies under the service jurisprudence are entirely different and were always available to him, independent of the criminal case.

7. In a given case, the High Court may refuse to extend the benefit of a discretionary relief to a party, and one such ground for refusing the relief claimed is delay and laches, unless the same has been sufficiently explained to the satisfaction of the court.

8. It has been held in a number of cases by the Supreme Court as also this Court that stale claims should not be entertained by the courts and failure to make out grounds to condone the delay in seeking remedy in law is sufficient to oust the petitioner. In this connection, reference may be made to the following judgments:

(i) Rajalakshmiah v. State of Mysore AIR 1967 SC 993

(ii) J.N.Maltiar v. State of Bihar : (1973)ILLJ474SC

(iii) C.B.S.E. v. B.R. Uppal and Ors. : 129(2006)DLT660

(iv) Savitri Sahni v. Lt. Governor, NCT of Delhi and Ors. : 130(2006)DLT287

9. In the aforesaid facts and circumstances, this Court in equity, does not deem it fit and appropriate to entertain the present writ petition, the same being hopelessly barred by delay and laches. The writ petition is, therefore, dismissed.

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