

Supreme Court of India

State Of U.P. And Ors. vs Raj Bahadur Singh And Anr. on 2 January, 1996

Equivalent citations: JT 2001 (10) SC 123, (1998) 8 SCC 685

Bench: B J Reddy, F Uddin

ORDER

1. The respondent was a temporarily appointed Police Constable. He was posted at the residence of one of the Hon'ble Judges of the Allahabad High Court as a Guard. There was a written complaint by the learned Judge about the misconduct committed by the respondent. A disciplinary enquiry was held. The Enquiry Officer recommended that the respondent be removed from service. At that stage, instead of passing final orders in the said disciplinary proceedings, an order of termination simpliciter was passed under the U.P. Government Temporary Government Servants (Termination of Services) Rules, 1975. An appeal was preferred by the respondent against the said termination before the Public Services Tribunal. The Tribunal held that though innocuous in form, in truth the order was penal in nature. Accordingly, the respondent's claim petition was allowed and the order of termination was set aside. One and a half years later, the State filed a writ petition in the High Court against the judgment of the Tribunal which was dismissed on the ground of delay. The High Court observed that there is no proper explanation for the delay in filing the writ petition after one and a half years. The present SLP is directed against the order of the High Court.

2. In our opinion the approach of the High Court is not justified, There is no time-limit for filing the writ petition. All that the court has to see is whether the laches on the part of the petitioner are such as to disentitle him to the relief claimed by him. But the High Court appears to have examined the matter as if it was a case under Section 5 of the Limitation Act, 1963. Apart from the above, we do not think that the proceedings should be prolonged any further. Even if the Tribunal is right in its opinion, the only result would be that the disciplinary authority would be now required to pass final order in the disciplinary proceedings. Having regard to the nature of the charge and having regard to the fact that the respondent was only a temporary employee, we think that the following order would be an appropriate one in the circumstances of this case:

Instead of reinstatement, pursuant to the order of the Tribunal, the respondent shall be entitled to a consolidated sum of Rs 30,000. The respondent shall not be entitled to any other claim. The said amount shall be paid by way of government cheque to the respondent within three months from today.

3. The special leave petition is disposed of with the above observations.