

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4011 OF 1999@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

Prabhu Lal Sharma

...Appellant (s)

Versus

U.O.I. & Ors.

...Respondent(s)

O R D E R ~@@
CCCCCCCC

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

The order of termination of the appellant passed by the Divisional Engineer on 28.02.1985, on the basis that he produced a forged Matriculation certificate while applying for the job is the subject matter of challenge on the ground that the purported exercise of power under rule 19(ii) of the Central Civil Service (Classification, Control and Appeal) Rules, 1965 (CCS Rules) is, on the face of it, vitiated as no reasons have been recorded in writing to indicate as to why it is not reasonably practicable to hold an inquiry. On a perusal of the said order of the Divisional Engineer, it is no doubt true that the appropriate Authority has not indicated reasons in writing for dispensing with the inquiry on the ground that it is not possible to hold an inquiry. But, in the case in hand, we do not think it appropriate to interfere in exercise of our jurisdiction under Article 136 of the Constitution of India, inasmuch as the sole basis of the appellant's case is that he had not submitted the so-called certificate of passing the High school Examination which is ...2

(2)

now being sought to be relied upon by the Authority and he is not aware of the fact as to who had submitted the aforesaid certificate.

It transpires that after the order of termination dated 28th February, 1985, the appellant had not taken any steps to assail the legality of the same until in the pending criminal proceeding he was acquitted. Being emboldened by an order of acquittal in the criminal proceeding, the appellant initiated a conciliation proceeding before an Industrial forum and finally the Industrial forum having held that the dispute is not entertainable under the provisions of the Industrial Disputes Act, approached the tribunal. The Tribunal, without entering into the merits of the matter, disposed of the O.A. on the ground that there has been gross delay in approaching the Tribunal and that the appellant had not availed of the alternative remedy available under the provisions of the CCA rules. The appellant then approached the High Court in a writ petition, but the High Court on consideration of facts being of the opinion that no case is made out for interference with the impugned order of termination in exercise of its discretionary jurisdiction under Article 226 of the

Constitution, dismissed the writ petition.

It is indeed difficult for us to imagine that when in the institution where the appellant got into the service, a certificate of passing the High School Examination was produced on behalf of one Shri Prabhu Lal Sharma son of Shri ...3

(3)

Ram Prasad Sharma and the appellant concedes that it was his name and his father's name but somebody else other than the appellant had submitted the same. It transpires from the statement of the Head Master of the school from which centre the appellant seems to have appeared at the School examination that no such person called Prabhu Lal Sharma son of Ram Prasad bearing Roll No. 455718 appeared as a candidate from the School centre in the High School Examination of 1976-77.

In these circumstances, even if we agree with the contention of the learned counsel appearing for the appellant that there was a failure on the part of the Authority concerned in exercise of power under rule 19(ii) of the CCA Rules as the order does not contain reasons in writing, it would not be appropriate for this Court to interfere with the impugned order in exercise of its jurisdiction under Article 136 of the Constitution of India. We, therefore, dismiss this appeal.

.SP1

.....J@@
BBBBBBBBBBBBBBBBBBBB
(G.B. PATTANAIAK)@@
BBBBBBBBBBBBBBBBBBBB

New Delhi,
March 27, 2001

.....J@@
BBBBBBBBBBBBBBBBBBBB
(B.N. AGRAWAL)@@
BBBBBBBBBBBBBBBBBBBB

.PA
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R
ITEM No.103 Court No. 4 SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 4011 OF 1999@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCC

Prabhu Lal Sharma ...Appellant (s)
Versus
U.O.I. & Ors. ...Respondent(s)

(With office report)

Date : 27/03/2001 These petition(s)/appeal(s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAİK
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s) Mr. Dinesh Dwivedi, Sr. Adv.
 Mrs. S. Janani, Adv.

For Respondent (s) Mr. N.N. Goswami, Adv.
 Mr. Rajiv Nanda, Adv. for
 Mr. P. Parmeswaran, Adv.

 Mr. Arvind Kumar Sharma, Adv. (Not present)

UPON hearing counsel, the Court made the following
O R D E R

.....L.....I.....J

.SP2

Appeal dismissed in terms of the signed order.

.SP1

(J.S. Rawat)
Court Master

(Suneet Bala Sharma)
Court Master

(Signed order is placed on the file)