

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. 5262 OF 2001@@
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STATE OF RAJASTHAN & ORS. ...APPELLANTS

VERSUS

ISHWAR PRASAD CHATURVEDI ...RESPONDENT

Date : 18/02/2003 This appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Ms. Sandhya Goswami, Adv.

For Respondent (s) Ms. K. Sarada Devi, Adv.

UPON hearing counsel the Court made the following
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Ms. Sandhya Goswami, learned counsel for the appellants argued the matter for 20 minutes. Thereafter, Ms. K. Sarada Devi, learned counsel for the respondent made her submissions in reply for 10 minutes.

The appeal is allowed in terms of the signed order with no order as to costs.

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Sarita (Shelly Sengupta)
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5262 OF 2001@@
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O R D E R@@
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This appeal is by the State of Rajasthan questioning the validity and correctness of the order passed by the Division Bench of the High Court dated 15.9.1999 affirming the order passed by the learned Single Judge allowing the writ petition filed by the respondent herein and directing his reinstatement with all consequential benefits. The respondent was appointed as a constable in the year 1967. He alongwith other co-constable Nanagram was suspended on 6.10.1978 on account of misbehaviour with the superiors and some other irregularity. After holding inquiry, the services of the respondent and said Nanagram were terminated on 20.10.1976. Nanagram filed a civil suit seeking declaration that the order of termination of his services was illegal and also for consequential benefits. The suit was decreed. The First Appeal filed by the State

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was dismissed and the Second Appeal filed by the State met with the same fate in the year 1990. It is thereafter the respondent filed writ petition seeking the relief of quashing the order of termination of his services dated 20.10.1976 and for the consequential benefits. The learned Single Judge allowed the writ petition only on the ground that similarly placed said Nanagram was granted relief in the civil suit. The learned Single Judge did not look into the question of inordinate delay and latches on the part of the respondent in approaching the Court in filing the writ petition almost after the period of 12 years. It appears that the respondent was sitting on the fence and watching the proceedings in the civil suit filed by Nanagram.

Ms. Sandhya Goswami, learned counsel for the state urged that the High Court committed a manifest error in granting relief to the respondent in a writ petition filed almost after 12 years; the writ petition ought to have been dismissed on the ground of delay and latches alone. In support of her contention she placed reliance on the decision of this Court in Life Insurance@@

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Corporation Of India & Ors. -vs.- Jyotish Chandra Biswas@@
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(2000) 6 SCC 562 and she, in particular, drew our

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attention to paragraph 6 of the same judgment which reads:

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"6. The order terminating the services of the respondent was passed on 28-1-1969. The writ petition was filed challenging the said order on 25-3-1975, almost after a period of six years. There was no

explanation in the writ petition whatsoever for this inordinate delay. The respondent sought for his re-employment in the Corporation by his letter dated 9-1-1974 almost after a period of five years from the date of termination of his services. It only indicated that he accepted the order of termination of his services, if not expressly but impliedly. In the writ petition no ground was raised as the deprivation of a right of appeal to the respondent against the order of the termination of his services. It is not the case of the respondent that he was denied any opportunity offending principles of natural justice. An inquiry was held pursuant to the charge-sheet; witnesses were examined; and even the respondent examined three witnesses on his behalf. The enquiry officer looking to the evidence brought on record found the respondent guilty of the charges. It was also not shown that any prejudice was caused to him in the inquiry. The disciplinary authority concurring with the findings recorded by the enquiry officer, after giving further opportunity to the respondent, passed the order terminating the services of the respondent. These being the facts and circumstances of the case, in our opinion the learned Single Judge was right in dismissing the writ petition. We find that the order of the learned Single Judge is a detailed and considered one. We find that the order of the learned Single Judge is a detailed and considered one. We find it difficult to accept the observations made by

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the Division Bench of the High Court extracted above that the order passed by the learned Single Judge was laconic. When there was no explanation whatsoever given by the respondent in the writ petition for delay of about six years, the learned Single Judge was right in saying so and dismissing it. When the ground that the respondent was deprived of a right to appeal was not taken before the learned Single Judge either in the writ petition or in arguments, the Division Bench was not right and justified in saying that the learned Single Judge did not assign any reason whatsoever in support of his judgment in this regard. We fail to understand how such a non-existing ground could be considered by the learned Single Judge."

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Per contra, Ms. K. Sarada Devi, learned counsel for the respondent argued in support and justification of the impugned order. According to her, the respondent was vigilant. He had filed an application for review of the order in the year 1980 and the order in review was passed

in 1984, but actually it was communicated to the respondent in 1990. Under these circumstances there was delay in filing the writ petition.

We are not impressed by the submissions made by the learned counsel appearing on behalf of the respondent. It is difficult to accept that the respondent could not approach the High Court earlier. In all probabilities he was watching for the result of the civil suit filed by Nanagram. Be that as it may, the ..5/-

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respondent filed the application for review in 1980. He could have only waited for a reasonable time and could have filed a writ petition earlier. In these facts and circumstances, the High Court should not have entertained the writ petition and the same should have been rejected on the ground of delay and latches. The learned single judge as well as the Division Bench of the High Court, in our view, have manifestly erred in granting relief to the respondent. In this view, we find merit in the appeal. The appeal succeeds. The order of the Division Bench affirming the order of the learned Single Judge under challenge is set aside.

The appeal is accordingly allowed with no order as to costs.

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.....J.
(SHIVARAJ V. PATIL)

New Delhi,
February 18, 2003.

.....J.
(ARIJIT PASAYAT)