

**IN THE HIGH COURT OF BOMBAY AT GOA
FIRST APPEAL NO. 81 OF 2007**

MR. FABIAO LUCIO PAULO PIO
GONSALVES THROUGH POWER OF
ATTORNEY SMT. SOCORRINA GONSALVES ... Appellant
Versus
STATE OF GOA THROUGH CHIEF
SECRETARY AND 3 ORS. ... Respondents

Mr. D. Pangam, Advocate for the Appellant.

Mr. Emerico Afonso, Government Advocate for the
Respondents.

Coram:- N. M. JAMDAR, J.

Date:- 9 March 2015

ORAL ORDER :

By this First Appeal the appellant seeks to challenge the judgment and order passed by the learned District Judge, North Goa, Panaji dated 30 December 2006.

2. The appellant had filed a suit for declaration and consequential relief against the respondents/State of Goa. The appellant was appointed as Lower Division Clerk on temporary basis, in the services of State of Goa on 31 February 1992. A disciplinary inquiry was instituted against him and he was dismissed from service by order dated 5 March 2004. The appellant filed a suit challenging this action of the respondents/State. According to the appellant there was no inquiry held and his termination was bad in law. The learned District Judge took note of the fact that the appellant had

taken leave, to enable him to visit his relatives residing in Portugal and thereafter had settled in Portugal and was employed there. The learned District Judge, on this and other grounds dismissed the suit.

3. When the appeal came up for final hearing, the appeal was adjourned from time to time. Mr. D. Pangam, the learned Counsel for the appellant had taken time on various occasions to take instructions from the appellant. He submitted that the appellant has now contacted him and the appellant is now residing in United Kingdom and is employed there.

4. The inquiry against the appellant could not proceed because even during the inquiry, the appellant was residing in Portugal. This position is noted by the learned District Judge in his judgment. It is also noted that the appellant is employed in Portugal since 2002. The appellant is now employed in United Kingdom. Ultimately, what the appellant seeks is reinstatement in the services of the State of Goa. Since the appellant is now employed since last several years, in Portugal and now United Kingdom, to my mind relief of reinstatement is rightly been refused by the learned District Judge. The grievance that there was no inquiry held also cannot be accepted as even during the inquiry the appellant was working in Portugal and did not attend the inquiry. In the circumstances, no fault can be found with the action of the respondents/State as well as the judgment and order passed by the learned District Judge.

5. Mr. Pangam submitted that the appellant will be entitled to Provident Fund and such other statutory dues. If the appellant is entitled to grant of statutory dues such as Provident Fund, gratuity, etc., the same will be paid to the appellant as per rules. Nothing survives in this appeal and the appeal is dismissed.

N. M. JAMDAR, J.

NH/-