

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Appeal No.1734 of 2013

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 1514 of 2013 dated 31.1.2013. The appellant herein is the petitioner in the writ petition. He was selected for the post of Conductor on contract basis by order dated 2.12.2008. He invoked the jurisdiction of this Court more than four years thereafter to declare the action of the respondents, in not allotting him duties, as arbitrary and illegal.

Before the learned Single Judge, the appellant-writ petitioner contended that he was expecting posting orders and, on his failure to get orders, he had filed a representation on 10.7.2011 requesting the Executive Director to issue posting orders.

In the order under appeal, the learned Single Judge observed that it is evident from the order dated 2.12.2008 that the appellant-writ petitioner and several others were engaged as Conductors on contract basis; it was difficult to accept the plea of the appellant-writ petitioner that he was not given posting orders nor was it possible to issue a direction to engage him at this distance of time; admittedly, the other candidates, who were selected along with the appellant-writ petitioner, joined duty pursuant to the very same order; no effort was made by the appellant-writ petitioner to ascertain his position soon after he came to know of the posting of other candidates; he did not approach the respondents until he filed a representation on 10.7.2011; and as it is clear from the order dated 2.12.2008 that the contract period itself was only upto 31.12.2008, the contract was frustrated and could not be given effect to.

While Sri S.M. Subhan, learned counsel for the appellant-writ petitioner, would contend that the failure of the appellant-writ petitioner to report for duty was because he was not intimated that he was selected as a contract Conductor, the fact remains that the contract period itself was upto 31.12.2008. The learned Single Judge has, in the order under appeal, disbelieved the appellant-writ petitioner's contention that he was unaware of the posting orders. Further the appellant-writ petitioner had sought posting orders only by way of a representation dated 10.7.2011, more than two and half years after the contract period itself had expired.

In an intra-Court appeal, under Clause 15 of the Letters Patent, interference is called for only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal. We see no reason, therefore, to grant the relief sought for in the writ appeal.

The writ appeal fails and is, accordingly, dismissed. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

13th April, 2017

pnb

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER



Writ Appeal No.1734 of 2013

Date: 13.4.2017

pnb