

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

W.A.M.P.No. 2207 OF 2017

IN/AND

W.A.No. 1157 OF 2017

DATED 22ND AUGUST, 2017

Between:

M.V.Apparao

.... Appellant

AND

Syndicate Bank,
Rep. by its Chairman & Managing Director,
Head Office: Manipal,
South Canara District, and others

... Respondents



Counsel for the appellant : Sri K.Lakshminarayana

Counsel for the respondents : --

THE COURT MADE THE FOLLOWING

COMMON JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

W.A.M.P.No. 2207 of 2017 is filed for condonation of delay of 1481 days in filing W.A.No. 1157 of 2017 against order dated 11-06-2013 in W.P.No. 16240 of 1999.

2. In the affidavit filed in support of the application for condonation of delay, the appellant has stated that his advocate has not kept him informed of the stage of the case and its dismissal on 11-06-2013 and it is only in the month of August, 2016, that he came to know about the death of his advocate. He has also narrated the subsequent events pertaining to his meeting the junior advocate on record and his alleged non-cooperation. Though detailed explanation is sought to be offered by the appellant, the fact remains that though the Writ Petition was dismissed in the year 2013, he has approached this Court with a delay of nearly four years. Had the appellant's advocate not been cooperating, he ought to have changed his counsel and diligently pursued the matter.

3. On a careful consideration of the explanation offered by the appellant, we do not feel convinced that the appellant was diligent in pursuing his cause. Even on merits also, we do not find any reason to interfere with the order of the learned single judge who declined to set aside order dated 23-04-1999, prematurely retiring the appellant from service while reviewing his performance along with other officers. From the findings of the learned single judge, it is evident that the record of the appellant was not satisfactory, in that he was censured on 21-06-1994 and suffered adverse remarks on 01-10-1994, that he failed to discharge his duties with utmost integrity, honesty, devotion and diligence. The learned single judge has placed reliance on a catena of decisions of the Apex Court in ***Gain Singh Mann Vs. High Court of Punjab and Haryana and***

*another*¹; *Baikuntha Nath Das and another Vs. Chief District Medical Officer, Baripada and another*²; *Posts and Telegraphs Board and others Vs. C.S.N.Murthy*³; and *Chief General Manager, State Bank of India, Bhubaneswar Vs. Suresh Chandra Behera*⁴ and rightly held that the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India does not sit as an appellate authority and examine the merits of the decision of the employer in the matter of refusal to extend service till the employee attains the age of superannuation. As rightly pointed out by the learned single judge, in the absence of allegation of *mala fides*, High Court would not substitute its opinion based on entries in records. At any rate, as noted hereinbefore, it cannot be said that the appellant got blemishless record.

3. For the aforementioned reasons, we are not inclined to interfere with the order of the learned single judge both on the grounds of inordinate delay and also on merits.

4. W.A.M.P.No. 2207 of 2017 and W.A.No. 1157 of 2017 are accordingly dismissed.

C.V.NAGARJUNA REDDY, J.

M.S.K.JAISWAL, J.

Date: 22-08-2017.

JSK

¹ (1980) 4 SCC 266

² (1992) 2 SCC 299

³ (1992) 2 SCC 317

⁴ AIR 1995 SC 1745