HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Spl. Appl. Writ No. 1074/2024

Kalu Ram Sharma S/o Shri Dev Kishan Sharma, Aged About 73 Years, Resident Of Gujjar Flour Mill Ke Pas, Shrinath Kiran Store, Ward No. 17, Gorvadhan Villas, Udaipur, (Raj.).

----Appellant

Versus

1. Chairman, Rajasthan State Road Transport Coroporation, Parivahan Bhawan, Parivahan Marg, Jaipur (Raj.).
2. Managing Director, Chariman, Rajasthan State Road Transport Coroporation, Parivahan Bhawan, Parivahan, Marg, Jaipur (Raj.).

----Respondents

Connected With

D.B. Spl. Appl. Writ No. 808/2024

1. Chairman, Rajasthan State Road Transport Corporation, Parivahan Bhawan, Parivahan Marg, Jaipur (Raj.).
2. Managing Director, Rajasthan State Road Transport Corporation, Parivahan Bhawan, Parivahan Marg, Jaipur (Raj.).

----Appellants

Versus

Kalu Ram Sharma S/o Shri Devi Kishan Sharma, Through Branch President, Parivahan Nigam Sanyukt Karamchari Federation, Udiya Pole, Bus Stand Premises, Udaipur (Raj.).

----Respondent

D.B. Spl. Appl. Writ No. 818/2024

1. Chairman, Rajasthan State Road Transport Corporation, Parivahan Bhawan, Parivahan Marg, Jaipur (Raj.).
2. Managing Director, Rajasthan State Road Transport Corporation, Parivahan Bhawan, Parivahan Marg, Jaipur (Raj.).

----Appellants

Versus

Banshi Lal S/o Shri Tara Shanker Paliwal, Resident Of Gogunda, District Udaipur (Raj.)- Through-Branch President, Parivahan Nigam Sahayak Karamchari Federation, Udiya Pole, Bus Stand Premises, Udaipur (Raj.).

----Respondent

D.B. Spl. Appl. Writ No. 1073/2024

Banshi Lal S/o Shri Tara Shankar Paliwal, Aged About 74 Years, Resident Of Gogunda, District Udaipur (Raj.).

----Appellant

Versus

1. Chairman, Rajasthan State Road Transport Coroporation, Parivahan Bhawan, Parivahan Marg, Jaipur (Raj).
2. Managing Director, Chariman, Rajasthan State Road Transport Coroporation, Parivahan Bhawan, Parivahan, Marg, Jaipur (Raj).

----Respondents

For Appellant(s)	:	Mr. Divik Mathur
For Respondent(s)	:	Mr. Avin Chhangani with Ms. Prenal Lodha

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE MADAN GOPAL VYAS
Order

22/01/2025

The matter comes up on applications (IA No.01/24) under Section 5 of the Limitation Act.

For the reasons mentioned in the application, the same are allowed. The delay in filling the appeals is hereby condoned.

Learned counsel for the parties jointly prayed for final disposal of the matter.

In D.B. Spl. Appl. Writ Nos. 1074/2024 & 808/2024:-

1. The instant appeals have been preferred challenging the order dated 13.05.2024 passed by learned Single Bench of this Court in *S.B. Civil Writ Petition No.13648/2022* ***(Chairman, RSRTC & Anr. Vs. Kalu Ram Sharma).***

2. The employee was appointed as a Conductor on 2 3.01.1973 in the department of Rajasthan State Road Transport Corporation (RSRTC). The appellant was compulsorily retired from the service vide order dated 16.10.2001, in terms of Rule 18-D(1) of the RSRTC Standing Order, 1965 (‘Standing Order of 1965’). The State

Government issued a Circular dated 03.12.2002, whereby the employees, who have been compulsorily retired, were allowed to submit their representation for reconsideration before the Governor of the State of Rajasthan. Thereafter, repeated representations were filed by the employee and when no order was passed on the same, the employee preferred ***S.B. Civil Writ Petition No.6045/2007 (Kalu Ram Sharma vs. State of Rajasthan & Ors.)*** but the same was dismissed by a learned Single Bench of this Court vide order dated 04.09.2009, while giving liberty to the employee to avail appropriate remedy.

3. The employee raised the industrial dispute before the Conciliation Officer and the same was referred for adjudication before the Labour Court vide notification dated 26.03.2015, the same culminated into a reference which was decided by the learned Labour Court vide impugned judgment and award dated 13.04.2022 in Case No.10/2015.

4. The said award was challenged by the employer - RSRTC by filling the ***S.B. Civil Writ Petition No.13648/2022 (Chairman, RSRTC & Anr. Vs. Kalu Ram Sharma),*** whereby, the impugned order/award dated 13.04.2022 was modified (vide order dated 13.05.2024) only to the extent that the workmen would not be entitled to get the salary for the period he did not work, based on the principal of "no work, no pay". However, the employee's services deemed to be continued w.e.f. 16.10.2001 till his due date of retirement. Learned Single Bench also made the employee entitled to the notional benefits qua the said period, which includes revision of his pension. The other retiral benefits were also directed to be accordingly considered without granting the

actual benefits for the period to which the employee has not discharged his services and if the said amount could not be paid within a period of three months, the employee shall be liable to get interest of 6% of per annum.

5. Mr. Divik Mathur, learned counsel for the employee submits that once the order of compulsory retirement has been set aside and there is no fault or lacuna on the part of the employee due to which he could not join his services, then it calls for grant of all the consequential benefits of continuity for the period he did not work. He further submits that the order of compulsory retirement was bad in the eye of law, and thus, all consequential benefits ought to have fallen out of the relief granted to the employee. He submits that the employee had a long career in which he actually discharged services from his appointment on 23.01.1973 to his compulsory retirement on 16.10.2001, and thus, his actual services rendered are of about 27 years.

6. Mr. Avin Chhangani, learned counsel for the employer-RSRTC assisted by Ms. Prenal Lodha submits that there is a long suffering from delay and latches on the part of the employee to have taken his remedy, and thus, the relief granted has to be withdrawn and the employee has to be declared not entitled for any kind of relief, may be even notional for the period during which he had not discharged his services. He further submits that a long duration has passed since the order of the learned Labour Court after the compulsory retirement, and thus, the time lapse in between is sufficient for not granting any consequential benefits of employment to the present employee. He also submits that the earlier writ petition was *disposed of* on 13.05.2024, and thus, no

benefit of the continuity of adjudication of the cause of action can be given to the present employee. He further submits that the employee's seeking parity with other employees could not have been granted and the same has rightly been dealt with by the learned Single Bench as the requisite material for the other employees' similarity/parity with the present employee has not been made out.

7. This Court, after hearing learned counsel for the parties finds that the Labour Court in its judgment and award dated 13.04.2022 has dealt with the factual matrix at length and has found that the procedure required for the compulsory retirement under the Standing Order of 1965 has not been rightly followed. The learned Labour Court found that the continuity of agitation was there on the part of the employee, and thus, he was required to be granted all relief for the period, which he has not discharged his services.

8. However, this Court finds that the ground of delay could not absolutely made out because the State Government itself had asked compulsorily retired employees to approach the Governor vide its Circular dated 03.12.2002 and thus, the employee's approaching the Governor rolled down the ball for agitation against the compulsory retirement order. In between the employee also preferred a review petition in 2004 and a writ petition in 2007; and also gave multiple representations and it is an undisputed fact that in pursuance of the State Government Circular dated 03.12.2002 no order has been passed by the Authority of Governor.

9. This Court is conscious of the fact that the employee has rendered his services from 23.01.1973 to 16.10.2001, which is about 27 years of his actual service. The reasons given by the learned Single Bench in the order dated 13.05.2024, while dealing with the issues of similarly situated employee, the punishment imposed, the merits of the order of compulsory retirement, the stages in which the employee was agitating his cause, relying upon the judgment rendered in the case of ***Baikuntha Nath Das & Ors. Vs. Chief District Medical Officer, Baripada & Ors.; (1992) 2 SCC 299*** and the reasoning given recording satisfaction in the award of learned Labour Court and modifying the relief does not call for any interference of this Court from either sides.

10. In view of the aforesaid observations, the special appeal (writ) is dismissed.

In D.B. Spl. Appl. Writ Nos. 818/2024 & 1073/2024:-

1. The parties jointly submits that the impugned order under challenge in these appeals are almost same as that of the appeal of *Kalu Ram Sharma Vs. Chairman, Rajasthan State Road Transport Coroporation & Anr. (D.B. Spl. Appl. Writ No. 1074/2024),* as they both were employees on same pedestal and were suffering from compulsory retirement order, which were interfered with by the learned Labour Court and then modified by the learned Single Bench. The operative portion of the decision rendered in the case of *Kalu Ram Sharma (supra),* reads as follows:-

> *"7. This Court, after hearing learned counsel for the parties finds that the Labour Court in its judgment and award dated 13.04.2022 has dealt with the factual matrix at*

length and has found that the procedure required for the compulsory retirement under the Standing Order of 1965 has not been rightly followed. The learned Labour Court found that the continuity of agitation was there on the part of the employee, and thus, he was required to be granted all relief for the period, which he has not discharged his services.

8. However, this Court finds that the ground of delay could not absolutely made out because the State Government itself had asked compulsorily retired employees to approach the Governor vide its Circular dated 03.12.2002 and thus, the employee's approaching the Governor rolled down the ball for agitation against the compulsory retirement order. In between the employee also preferred a review petition in 2004 and a writ petition in 2007; and also gave multiple representations and it is an undisputed fact that in pursuance of the State Government Circular dated 03.12.2002 no order has been passed by the Authority of Governor.

9. This Court is conscious of the fact that the employee has rendered his services from 23.01.1973 to 16.10.2001, which is about 27 years of his actual service. The reasons given by the learned Single Bench in the order dated 13.05.2024, while dealing with the issues of similarly situated employee, the punishment imposed, the merits of the order of compulsory retirement, the stages in which the employee was agitating his cause, relying upon the judgment rendered in the case of ***Baikuntha Nath Das & Ors. Vs. Chief District Medical Officer, Baripada & Ors.; (1992) 2 SCC 299*** *and the reasoning given recording satisfaction in the award of learned Labour Court and modifying the relief does not call for any interference of this Court from either sides.*

10. In view of the aforesaid observations, the special appeal (writ) is dismissed."

2. In light of such joint submission, without interfering in the order of learned Single Bench, the present appeals are also

dismissed in the same terms as that of the *Kalu Ram Sharma* (Supra).

3. The employer shall be required to expeditiously comply with the order of the learned Single Bench, looking to the age of the employee.

(MADAN GOPAL VYAS),J **(DR.PUSHPENDRA SINGH BHATI),J**

51-54-Devraj/Nirmala/-