

Sualal Yadav

Vs

The State of Rajasthan and Others

Civil Appeal No. 52 of 1974

(A. Alagiriswami, P. K. Goswami, N. L. Untwalia JJ)

15.09.1975

JUDGMENT

GOSWAMI, J. –

1. The appellant was a Sub-Inspector of Police. He was dismissed from service by an order of the Inspector-General of Police on or about July 13, 1964 after holding a departmental enquiry in which it appears he was not present. The appellant appealed to the appropriate authority on October 12, 1964 and the same was dismissed on June 25, 1966. After that, the appellant made a review application under Rule 34 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 on June 1, 1968. It appears the review application was entertained by the Governor and he passed an order holding that the matter was not fit for review. Thereafter, within about two or three months, a writ application was filed before the High Court which was dismissed by the impugned order.

2. A preliminary objection was taken by the State in the High Court that the application merited dismissal because of undue laches and delay on the part of the appellant. The High Court found that the review application was made to the Governor after a lapse of about two years which was unreasonable delay according to the High Court. That is the main reason why the High Court accepted the preliminary objection and dismissed the writ application. We are unable to hold that the High Court's approach in this matter was correct. Since the Governor had not dismissed the review application on the ground of delay and having entertained the same held it to be a case not fit for review, we take the view that the Governor dismissed the review application on merits. That being the position, it was not open to the High Court to resurrect the ground of delay in the review application at a remote stage and make it a ground for dismissing the writ application. We therefore allow the appeal, set aside the order of the High Court and remit the writ application for disposal in accordance with law. It is hoped the High Court will be able to dispose of the same expeditiously. There will be no order as to costs.

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