

Shyamalendu Nag

Vs

State of Manipur and others

Civil Appeal No. 1148 of 1978

(L. M. Sharma, M. M. Punchhi, Yogeshwar Dayal JJ)

04.02.1992

JUDGEMENT

SHARMA, J.:-

1. The appellant, while he was serving in the Accounts Department as Divisional Accountant, applied for appointment to the post of Munsif Magistrate in Manipur Judicial Service and was selected. Accordingly an appointment letter was issued on 25th of May, 1977, and he promptly indicated his intention to join the new Post. Since he had to be relieved from the accounts department for joining the new assignment, he made an application for the purpose. A copy of his appointment letter was also sent directly by the State Government to the Accountant General, Assam, with a request to release him immediately. The appellant was, however, not relieved and a letter was sent from, the office of the Accountant General to the Law Secretary to the Government of Manipur for granting one month's time. This letter was sent on 20th of June, 1977. By another letter dated 22nd of July, 1977 a further one month's time was requested for by the office of the Accountant General. Even after two extensions the office of the Accountant General did not release the appellant and instead sent a telegram for further time on the 24th of August, 1977. By the impugned order dated 7th of September, 1977 the Government of Manipur withdrew the offer of appointment. In these circumstances the appellant filed a writ petition before the Gauhati High Court impleading the State of Manipur and its officers but not joining the Union of India as a party. By the impugned judgment the writ petition was dismissed. The High Court observed that the appointment letter itself indicated that if the candidate failed to report for duty by the prescribed date, the offer would be treated as cancelled, and although no specific date was mentioned in the said order, the State authorities could not be expected to wait for the selected candidates indefinitely. It has further been mentioned that steps were immediately taken by the State Government after the 7th of September, 1977 to appoint another person in the vacancy. The Government advocate during the course of the hearing before the High Court stated that another candidate had accordingly been appointed.

2. The learned counsel for the appellant has strenuously contended that the appellant was not at fault at all in not proceeding to join the new post promptly as he had to wait for the orders of his superior authority in the Accountant General's office relieving him. The learned counsel for the State of Manipur has opposed the appeal on the ground that the respondents also cannot be held to be responsible in the circumstances. If there had been undue delay in relieving the appellant, it was for the officers in the Accountant General's office to explain. The admitted position is that the appellant was serving in the office of the Accountant General under the Union of India which was not a party

either in the High Court or in this Court and it is too late to add it a!jrespondent for explaining something which happened more than 14 years ago. We have considered all the circumstances of the case and we do not find ourselves in a position to take a view different from that of the High Court in spite of our sympathy with him. The appeal is, therefore, dismissed, but in the circumstances without costs.

Appeal dismissed.

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