RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Second Appeal No. 97/2003
CNR: RJHC020384702003 | URN: CSA / 111U / 2003

Rajasthan High Court
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1. Rajasthan State Road Transport Corporation, Jaipur through its Managing Director, Parivahan Marg, C-Scheme, Jaipur.
2. Regional Mechanical Engineer, Rajasthan State Road Transport Corporation, Sikar Depot, Sikar.

----Appellant/Defendant

Versus

Kunwar Pal Singh son of Shri Narain Singh, resident of Ward No.6, Near Post Office, Jhunjhunu, Ex Driver, R.S.R.T.C. Khetri Depot, Khetari.

----Non-Appellant/Plaintiff

For Appellant(s)	:	Mr. S.L. Sharma with Mr. Prem Chand Sharma
For Respondent(s)	:	Mr. K.C. Sharma

HON'BLE MR. JUSTICE ANUROOP SINGHI

Order

20/11/2026

1. The present second appeal has been filed by appellant(s) - Rajasthan State Road Transport Corporation (**Corporation**) under Section 100 of Code of Civil Procedure, 1908 (**CPC**), being aggrieved by the judgment and decree dated 09.09.2002 passed by learned Additional District Judge No.4, Jaipur City, Jaipur, vide which the regular first appeal preferred by appellant(s) - Corporation was dismissed and the judgment and decree dated 15.02.1995 was affirmed.

2. Vide judgment and decree dated 15.02.1995, the suit filed by the plaintiff - employee was decreed and the termination order of the plaintiff - employee dated 01.08.1983 as well as the order dated 11.07.1988 dismissing the departmental appeal preferred

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by the plaintiff - employee, were declared as illegal, void and violative of principles of natural justice and the plaintiff - employee was also declared entitled for back-wages and monetary benefits as he would have been entitled to during service.

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3. The facts of the case leading to filing of the present appeal, as culled out from record, are that the plaintiff - employee filed a suit stating therein that he was appointed on the post of Driver in the appellant - corporation. Subsequent thereto, he rendered his services with all sincerity and diligence, however, by imputing an allegation against the plaintiff - employee that he remained absent from duty w.e.f. 11.05.1983, his services were terminated w.e.f. 01.08.1983. It was further stated that prior to passing of the termination order, neither any inquiry was held nor any opportunity of hearing was granted to the plaintiff - employee and the principles of natural justice were not followed. Even the departmental appeal preferred by the plaintiff - employee was dismissed in a casual manner vide order dated 11.07.1988, aggrieved by which the civil suit was filed by the plaintiff - employee on 05.12.1988.

4. It was also pleaded that the termination order had been passed in flagrant violation of Rajasthan State Road Transport Workers and Workshop Employees Standing Orders, 1965, (hereinafter referred to as "**the Standing Orders**").

Thus, it was prayed that the termination order and so also the order passed by the Appellate Authority be declared as illegal and void and directions be issued to the appellant(s) - corporation to reinstate the plaintiff - employee with all consequential and monetary benefits.

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5. Appellant(s) - corporation filed its written statement denying the averments made in the plaint and submitted that prior to passing of the termination order, not only notice was sent to the plaintiff - employee, but even publication in the newspaper was made on 18.07.1983 requiring the plaintiff - employee to mark his presence. Despite that, the plaintiff - employee remained absent and consequently, the termination order dated 01.08.1983 was passed. It was also pleaded that the Civil Court lacked jurisdiction to entertain the suit and the same is not maintainable.

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6. On the basis of the pleadings of the parties, the learned trial Court framed the following issues:-

> *"1. आया कि वादी का सेवा पृथककरण आदेश क्रमांक 2269 दिनांक 1.8.83 एवं अपील निरस्त आदेश दिनांक 11.7.83 अवैध एवं नैसर्गिक न्याय के विरुद्ध है?*
>
> *2. आया कि वादी को वाद आधार नहीं है?*
>
> *3. आया कि मालियत दावा कम आंका गया है एवं न्याय शुल्क कम अदा किया गया है?*
>
> *4. आया इस न्यायालय को श्रवणाधिकार एवं श्रेत्राधिकार नहीं?*
>
> *5. अनुतोष?"*

7. To substantiate the averments of the plaint, the plaintiff - employee examined himself as PW-1 and produced relevant documents. The appellant(s) - corporation despite sufficient opportunities, failed to examine any witness.

8. The learned trial Court, after appreciating the evidence on record and considering the arguments advanced by the respective parties, vide its judgment and decree dated 15.02.1995, decided all the issues in favour of the plaintiff - employee and decreed the suit. The learned trial Court recorded a specific finding that the order of termination had been passed in violation of the Standing Orders, without conducting any departmental inquiry and in

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violation of the principles of natural justice. Accordingly, the learned trial Court held that the termination order, as well as the order passed by the departmental appellate authority, were illegal and bad in the eyes of law. Furthermore, the learned trial Court also directed to give all the monetary and consequential benefits to the plaintiff - employee to which he would have been entitled to during service.

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9. Being aggrieved by the judgment and decree dated 15.02.1995, the appellant(s) - corporation preferred regular civil appeal under Section 96 of CPC, however, the learned Appellate Court after considering the grounds raised, evidence on record and the applicable law on the subject, held that the suit filed by the plaintiff - employee was maintainable and vide judgment dated 09.09.2002, dismissed the appeal of the appellant(s) - corporation. Resultantly, the findings of the learned trial Court were affirmed in first appeal.

10. Being aggrieved by the concurrent findings recorded by both the Courts, the present second appeal has been preferred by appellant(s) - corporation. This Court vide order dated 06.10.2006 framed the following substantial question of law:-

> *"**Whether,** the Civil Court has jurisdiction to entertain, try and decide the present suit filed by the plaintiff-workman?"*

11. Heard learned counsel for the parties and perused the impugned judgment passed by learned trial Court as affirmed by the First Appellate Court, as well as the available record.

12. As far as the issue with respect to the jurisdiction of the Civil Court to entertain suit(s) questioning the orders of termination

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passed by appellant(s) - corporation is concerned, on a reference being made, the larger Bench of the Hon'ble Supreme Court in the case of ***Rajasthan State Road Transport Corporation & Anr. Vs. Bal Mukund Bairwa*** reported in ***(2009) 4 SCC 299*** has held that in a case where no departmental inquiry has been conducted, there would be a violation of the statutory regulation so also the right of equality as enshrined in Article 14 of the Constitution of India; thus, a civil suit will be maintainable for the purpose of declaration that the termination of services was illegal and all of the consequences flowing therefrom.

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13. It has been further held that if the procedure laid down by statutory regulation has not been followed or where compliance is otherwise imperative under the common law or the principles of natural justice have been violated, the Civil Court will have the jurisdiction to entertain the suit. Thus, in view of the said settled position of law, the substantial question of law so framed in the present second appeal is answered in the manner that the Civil Court had jurisdiction to entertain, try and decide the present suit filed by the plaintiff - employee.

14. During the course of arguments, learned counsel for the appellant(s) - corporation raised an argument with respect to the suit filed by the plaintiff - employee being barred by limitation. Learned counsel submits that though no substantial question of law with respect to the said issue has been framed in the present second appeal, however, this Court is empowered under Section 100 of CPC to frame a substantial question of law on the said issue as it goes to the root of the matter. The basis of the said submission of learned counsel for the appellant(s) - corporation is that as the order of termination was passed by the appellant(s) -

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corporation on 01.08.1983 and the suit was belatedly filed on 05.12.1988, the same is barred by limitation.

15. Though, in absence of any substantial question of law being framed in respect of limitation, the submission advanced by learned counsel for the appellant(s) - corporation could have been brushed aside, however, considering the provisions of Section 100 of CPC, which allows this Court to hear the appeal on any other substantial question of law, not earlier formulated, the said issue is being considered. It is a matter of record that along with the order of termination dated 01.08.1983, the order dated 11.07.1988, passed in departmental appeal filed by the plaintiff - employee was also a subject matter of challenge in the suit filed by the plaintiff - employee. It is also a matter of record that the suit was filed on 05.12.1988, which was well within the limitation from the date of order dated 11.07.1988, vide which the appeal filed by the plaintiff - employee was dismissed. The issue of limitation as to whether it should be counted from the date of termination order or from the date of last order of Appellate Authority has been settled by Co-ordinate Benches of this Court in ***S.B. Civil Second Appeal No.245/1996*** titled as ***Ram Ratan Sharma Vs. R.S.R.T.C.*** decided on 01.03.1997, ***S.B. Civil Second Appeal No.204/1999*** titled as ***Mali Ram Banjara Vs. Rajasthan State Road Transport Corporation & Ors.*** decided on 19.03.2013 and in ***S.B. Civil First Appeal No.95/1999*** titled as ***M/s Indus Hotels Corporation Ltd. Vs. Municipal Corporation Jaipur*** decided on 22.02.2005, wherein it has been held that limitation can be and should be counted from the last order, including order of the Appellate Authority.

16. In view of the proposition of law laid down in the above judgments, it is no more res-integra that limitation can be and

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should be counted from the last order, including order of the Appellate Authority and thus, the suit filed by the plaintiff - employee was well within limitation and accordingly, the said submission raised by learned counsel for the appellant(s) - corporation deserves to be answered in negative.

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17. Learned counsel, at this stage, submits that in case this Court is not inclined to interfere in the quashing of the termination order, the directions to the extent of grant of back-wages to the plaintiff - employee be set aside.

18. Once this Court has arrived at a categorical finding that both the Courts below have not committed any illegality or jurisdictional error in quashing the termination order dated 01.08.1983 along with the order of the Appellate Authority dated 11.07.1988, there is no occasion for this Court to interfere even in the findings recorded therein with respect to the grant of back-wages and all the consequences flowing therefrom.

19. Consequently, the present appeal stands dismissed.

20. Pending application(s), if any, stands disposed of.

(ANUROOP SINGHI),J

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