

(2011) 05 DEL CK 0406

Delhi High Court

Case No: Writ Petition (C) 369 of 2011

Sh. Gurdeep Singh

APPELLANT

Vs

President, Delhi Sikh Gurudwara
Management Committee

RESPONDENT

Date of Decision: May 23, 2011

Acts Referred:

- Delhi Sikh Gurdwaras Act, 1971 - Section 32, 33(1)

Hon'ble Judges: Rajiv Sahai Endlaw, J

Bench: Single Bench

Advocate: S.N. Sharma and D.D. Joshi, for the Appellant; None, for the Respondent

Final Decision: Dismissed

Judgement

Rajiv Sahai Endlaw, J.

CM No. 7317/2011 (for exemption)

Allowed, subject to just exceptions.

CM No. 7318/2011 (for condonation of 28 days delay in filing the annexures)

For the reasons stated, the application is allowed. The delay in filing the annexures is condoned.

The application is disposed of.

W.P. (C) No. 369/2011

1. The matter has been listed as per office note dated 13th May, 2011.

2. The writ petition impugns the order dated 13th December, 2001 of the Respondent terminating the services of the Petitioner. The writ petition has been preferred after more than 10 years of the order impugned. In fact, the Petitioner immediately after the order, on 14th December, 2001 itself instituted a suit for

permanent injunction in the Court of the Civil Judge, Delhi to restrain the Respondent from so terminating his services. The Petitioner however claims to have withdrawn the said suit on 22nd February, 2002. The Petitioner thereafter averring that the order of his termination was in violation of the interim order for maintenance of status quo in a writ petition/writ appeal relating to disputes as to election to the office bearers of the Respondent, filed Cont. Case(C) No. 11/2002. The said contempt petition was finally dismissed vide order dated 30th August, 2010. However that order records that the counsel for the Respondent had stated that in case the Petitioner instituted any proceedings, the Respondent will not raise the plea of limitation. The counsel for the Petitioner contends that in view of the said statement of the Respondent, the delay of 10 years in challenging the order of termination should not come in the way of this challenge.

3. Attention of the counsel for the Petitioner is invited to Section 32 of the Delhi Sikh Gurudwaras Act, 1971 under which the Respondent has been constituted and which inter alia provides:

32. The Court of the District Judge in Delhi shall also have jurisdiction in respect of the following matters namely:

(c) Petitions regarding complaints, irregularities, breach of trust, mismanagement in any Gurdwara, educational or other institutions against any member, office-bearer or officer or other employee of the Committee.

(d) Petitions arising out of any type of disputes between the Committee and its employees including past employees.

4. It has been enquired from the counsel for the Petitioner as to how, in face of the aforesaid provision making the alternative remedy available before the District Judge, the present writ petition would lie.

5. The counsel for the Petitioner contends that the Petitioner had earlier approached the District Court but upon objection being taken by the Respondent as to the jurisdiction of the District Court, the Petitioner had approached this Court by way of Contempt Petition and now by way of this writ petition. On being asked to show as to where the Respondent had taken objection to the jurisdiction of the District Court, the counsel for the Petitioner has invited attention to pages 213 and 214 of paper book containing an application dated 7th January, 2002 filed by the Respondent in the civil suit aforesaid filed by the Petitioner. However a perusal of the said application shows that the objection taken by the Respondent also was of Section 32 of the Act only and not of the Petitioner being required to avail of the writ remedy. The Petitioner, inspite of being informed as far back as on 7th January, 2002 of the remedy u/s 32 of the Act, chose to pursue the wrong remedies and cannot now be heard to raise the plea of having been made to run from pillar to post. The Petitioner has himself to blame for approaching the wrong for a. In this regard it may also be mentioned that Section 33(1) of the Gurudwaras Act provides

for a statutory appeal to this Court from the orders of the District Judge made in exercise of powers u/s 32 supra. The Gurudwaras Act having provided a complete machinery for adjudication of the disputes of the Respondent with its employees including past employees, it is the established principle of law that the writ remedy would ordinarily not be available.

6. Even otherwise, the matter appears to be such which would require examination and cross-examination of witnesses and which cannot be conveniently done in writ jurisdiction. On the contrary, in exercise of powers u/s 32 of the Gurudwaras Act, the District Judge would be entitled to record the examination and cross-examination of witnesses. The services of the Petitioner were terminated for the reason of the Petitioner having misappropriated a sum of approximately Rs. 33,000/- while working in the Respondent Delhi Sikh Gurudwara Management Committee. The order further records that the Petitioner had admitted his guilt before the Inquiry Officer. The Petitioner challenges all the said facts and which as aforesaid would require recording of evidence.

7. The counsel for the Petitioner has lastly urged that two others also terminated along with him have since been taken back by the Respondent. The said argument appears to have been raised before the Contempt Court also as is apparent from the order dated 22nd March, 2007 in Contempt Case No. 11/2002. Even the said aspect requires enquiry as to whether the Petitioner was/is similarly placed as the other two persons who are stated to have been taken back.

8. The counsel for the Respondent though not present today has in some other cases coming up before this Court also informed that the Respondent has constituted an Appellate Authority comprising of Justice T.S. Doabia to hear the grievances of the employees. The Petitioner is informed of the same also so as to, if finds the same to be suitable/appropriate remedy, avail of the same.

9. The writ petition is accordingly dismissed with liberty however to the Petitioner to take an appropriate remedy available in law.

No order as to costs.