

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 596 OF 2007

KHAZIA MOHAMMED MUZAMMIL

Appellant (s)

VERSUS

STATE OF KARNATAKA & ANR.

Respondent(s)

Date: 20/05/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE SWATANTER KUMAR
(Vacation Bench)

For Appellant(s) Mr.Guru Krishna Kumar, Adv.
Mr. S.R. Setia, Adv.

For Respondent(s) Mr.Anil Kumar Mishra, Adv.
Mr.A. Rohan Singh, Adv.
Mr.Amesh K. Mishra, Adv.
Mr. Sanjay R. Hegde, Adv.

UPON hearing counsel the Court made the following
O R D E R

This case was heard at some length yesterday and was part-heard for today. At the very outset, we must notice that from the record before us, ex-facie, it appears that the appellant before this Court has sworn the false and/or incorrect affidavits. In order to demonstrate our above observation, we may refer to the following details which have been given by the appellant in various affidavits and/or pleadings of the present case, which are as follows :

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Date	Age	Page(s)
29.3.2000	46	28/37
23.2.2001	46	51
20.9.2004	50	18
14.10.2006	54	52
22.10.2009	57	4/5(Appln.for Early Hearing)
30.6.2010	60	-

9.5.1996	Joined Service	E	
20.3.2000	WP	34	15.5.95) 25.3.2000)
	Counter Affidavit By the High Court	44	

As would be evident that if one of the dates given by the appellant is taken to be correct, he would superannuate on 30th June, 2010, and if another date is taken, he would be only 57 years of age as on 22nd October, 2009. Besides this, he had joined service as per the letter of appointment of 9th May, 1996, but at page 34 of the paper book, he claimed to have joined service on 15th May, 1995, which on the face of it, is not a correct statement of facts. We further note that the case of the appellant is that during the period of his service, no adverse entries had been made in his

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service record, which has been seriously disputed by the respondents who state that even complaints were received against the appellant.

With some amount of anguish, we must also notice that the High Court appears to be callous about the whole matter. The reply filed on behalf of the High Court does not specifically dispute any of the averments made by the appellant. The reply besides being vague, is intended to benefit the appellant, which is entirely uncalled for. It has become necessary for us to know the correct position of facts before we dwell upon legal submissions raised on behalf of the appellant. This Court vide its order dated 28th April, 2006, had expressed certain doubts and directed

that the records should be produced before the Court and records should be made available before this Court at the time of hearing. Despite the fact that this case has been on Board for this entire week and was heard for considerable time yesterday and was part-heard for today, still records are not available. We are unable to appreciate this attitude of the High Court towards this case, pending in the highest Court

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of the land. We may also notice that yesterday some papers had been shown to us showing that the name of the appellant was placed in the "rowdy" list of the police maintained by the concerned police station and his local activities were being watched. The appellant has filed the writ petition praying for quashing and deletion of his name from the said list. This fact does not find mention either in the reply filed by the High Court or in the Writ Petition filed by the appellant before the High Court. Learned counsel for the appellant submitted that this event was subsequent to the filing of the writ petition. Whatever be the merit or otherwise of that Writ Petition, we fail to understand why this fact was not taken note of and brought to the notice of the High Court when the police gave a verification report about the appellant which was monitored prior to the appointment of the Higher Judicial Services of the State. We find that we are unable to appreciate the conduct of the appellant as well as that of the High Court in the present proceedings and in our view certain directions need to be issued in this regard. Before we issue any such orders or consider the conduct of either of them in accordance with law, we consider it appropriate to

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require the appellant to file an affidavit explaining the above-mentioned events. The High Court is also at liberty to file affidavit, if any, but the Registrar General of the High Court shall be present in Court with complete records. We are compelled to pass such directions but are left with no alternative in view of the conduct of the parties in the present appeal.

List for further hearing on 28th May, 2010.

Copy of this order be sent to the Registrar General of the High court of Karnataka by the Registry.

[Charanjeet Kaur]
Court Master

[Indu Satija]
Court Master