
(2018) 10 RAJ CK 0047
In the Rajasthan High Court
Case No : Spl. Appl. Writ No. 977 of 2018

Bhishmapal Singh @APPELLANT@Hash Rajasthan State Road Transport Corporation

Date of Decision : 08-10-2018

Acts Referred:

Citation : (2018) 10 RAJ CK 0047

Hon'ble Judges : Sangeet Lodha, J;Dinesh Mehta, J

Bench : Division Bench

Advocate : Deelip Kawadia

Final Decision : Dismissed

Judgement

1. This special appeal is directed against order dated 21.7.16 passed by the learned Single Judge of this court, dismissing the writ petition preferred by the appellant to consider his candidature against the Sportspersonsâ?? quota, for promotion to the post of Assistant Traffic Inspector. The appellant has also assailed the order dated 23.11.17 passed dismissing the petition preferred dated 21.7.16. Â by the learned Single Judge by him seeking review of order dated 21.7.16.

2. The facts relevant are that the appellant being a Hockey Player was accorded appointment on the post of Conductor vide order dated 31.10.87 issued by the Divisional Manager, Rajasthan State Road Transport Corporation (RSRTC), Udaipur on daily wages basis, however, he was retrenched from service vide order dated 12.4.89. Later, he was re-appointed as Conductor on daily wages basis vide order dated 3.6.93 issued by the Chief Manager, RSRTC, Udaipur Depot. Thereafter, vide order dated 3.1.98 he was confirmed on the post of Conductor w.e.f. 5.9.96. In the year 2005, the candidature of the eligible candidates was considered for promotion to the post

of Assistant Traffic Inspector inter alia against the Sportspersonsâ??

quota but the candidature of the appellant was not considered. The appellant made representation but to no avail. In these circumstances, the legality

of the action of the RSRTC in denying consideration of his candidature for promotion against the sports quota, was assailed by the appellant by way of

writ petition, which stands dismissed by the learned Single Judge by order under appeal. The review petition preferred has also been dismissed by the

learned Single Judge. Hence, this appeal.

3. The learned Single Judge while dismissing the writ petition noticed that initially in the year 1987, the appellant was accorded appointment as

Conductor on daily wages basis being Sportsperson and thereafter, he was retrenched and later re-appointed against the Sportspersonsâ?? quota.

Learned Single Judge observed that the re-appointment of the appellant would co-relate to his original appointment and thus, the appointment of the

appellant has to be considered against the sports quota. Keeping in view the provisions of clause 6(4) of the Regulations, the learned Single Judge

observed that until and unless the appellant secured the position of a winner or a runner up in international tournament during his service tenure, he

cannot be given advantage of promotion against the sports quota having already taken advantage of his sports proficiency while gaining the

appointment. Accordingly, the writ petition was dismissed. The review petition preferred was also dismissed by the learned Single Judge observing

that there is no error apparent to the face of record.

4. Learned counsel appearing for the appellant contended that the appellant was never given appointment against the sports quota and therefore, he

was entitled to be considered for promotion against the sports quota inasmuch as, the appellant had acquired National Level Sportsperson qualification

for the first time in the year 1999 and subsequently, in the year 2010. Learned counsel submitted that the appointment of the appellant in the year 1987

and thereafter, in the year 1993 was not against the sports quota and therefore, he could not have been denied the benefit available to the

Sportsperson on the ground that he has already availed the benefit at the time of initial appointment.

5. Admittedly, in the first instance, the appellant being a Sportsperson was appointed as Conductor on daily wages basis on probation for a period of

one year vide order dated 15.9.87 issued by the Divisional Manager, RSRTC, Udaipur, however, his services were brought to an end vide order dated

12.4.89. Later, he was re-appointed as Conductor on probation vide order dated 3.6.93.

A bare perusal of the order placed on record by the appellant as Annexure 9 alongwith the review petition reveals that the re-appointment was given

to the appellant being a retrenched employee and thus, apparently, the appointment accorded to the appellant relate to his initial appointment on the

said post being Sportsperson vide order dated 30.10.87. In this view of the matter, the appellant having availed the benefit available to the

Sportsperson at the time of initial appointment was not entitled for the benefit thereof for further promotion.

6. It is not in dispute that as per Clause 6(4) of the RSRTC Sports Quota Promotion Rules, 1998, the person recruited in the service of RSRTC being

a Sportsperson of National/International Level shall not be ordinarily entitled for the benefits at the time of promotion. Only the candidates of

International Level who have participated after being inducted in service and secured the position of a winner or runner up is only entitled to avail the

advantage of sports quota in promotion. It is not the case of the appellant that during his service tenure he participated in the International Tournament

and secured a winner or a runner up position and thus, he has rightly been declined the benefits prayed for.

7. For the aforementioned reasons, in the considered opinion of this court, the orders under appeal passed by the learned Single Judge do not warrant

any interference by us in intra court appeal jurisdiction.

8. Consequently, the appeal fails, it is hereby dismissed.