

(2016) 09 RAJ CK 0081

In the Rajasthan High Court

Case No : Civil Writ Petition No. 5939 of 2007.

B.L. Meena - Petitioner @HASH Rajasthan High Court

Date of Decision : 09-09-2016

Acts Referred:

Citation : (2016) 4 WLN 307

Hon'ble Judges : K.S. Jhaveri and Banwari Lal Sharma, JJ.

Bench : Division Bench

Advocate : Mr. Suresh Sahni with Mr. R.M. Sharma, Advocates, for the Petitioner; Mr. Virendra Lodha, Sr. Advocate with Mr. Tarpit Patni, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Mr. K.S. Jhaveri, J. - By way of this petition, the petitioner has challenged the action of the respondent whereby the petitioner was deprived of the legitimate right of grant of selection grade (SC) in Rajasthan Higher Judicial Service Cadre with effect from 1.4.2001 and super time scale with effect from 1.8.2005.

2. The facts of the case are that the petitioner was appointed as judicial officer selected in Rajasthan Judicial services and was posted on 2nd January, 1979 as Munsiff cum Judicial Magistrate. The petitioner was granted selection scale in Rajasthan Judicial Services Cadre from 13th August, 1987. Later on, he was further awarded the super time scale in Rajasthan Judicial Services with effect from 19.3.1991.

2.1. The petitioner was promoted to the post of District and Sessions Judge and was posted as Special Judge, Essential Commodities Act Cases, Jaipur. Since the said Court was not having the plurality of the cases, therefore, the rule of determination of the quota was not applicable and hence the respondent vide office order dated 3.3.1979 exempted this quota criteria for the purpose of judging the efficiency of the officer posted in this Special Court. The petitioner's predecessor as well as the successors have been awarded the selection scale and the petitioner was not granted the same.

3. The petitioner's counsel has taken us through record and different circulars and contended that he is entitled for the benefits.

4. Counsel for the respondent has specifically pointed out that the petitioner could not achieve "good" or "very good" in view of the specific averment which has been made in the petition that non-availability of work was not a criteria. Further, counsel for the respondent-High Court has taken us to the averment in reply more particularly in para 8 and 9:

"8. It is submitted that matter of grant of selection scale to the petitioner against the vacancies of the year 2004-2005 was considered by another committee of Hon'ble Judges, constituted for the purpose by the Hon'ble Chief Justice. After due consideration, Hon'ble Committee in its minutes dated 15.2.2007 did not find the petitioner fit to be recommended for grant of selection scale in the year 2004-05 for the reason that he was not having requisite number of good or above entries in the block of relevant seven years i.e. 1997-2003. Matter of grant of selection scale to petitioner against the vacancies for the year 2005-06 was also considered by the same Hon'ble Committee and in its minutes dated 15.2.2007, the Hon'ble Committee did again not find him fit for grant of selection scale for the reason that he did not have requisite number of good or above entries in relevant years i.e. 1998-2004.

The minutes of the Hon'ble committee dated 15.2.2007 were approved by the Hon'ble Full Court in its meeting held on 1.6.2007. Consequently, an order dated 13.6.2007 (Annex.4 of the writ petition) was issued by the respondent.

9. That apart from it, the petitioner was assessed as an "average" officer, in ACR of the year 2002 both in Part-I and Part-II. Advisory remarks recorded in Part-II of ACR of year 2002 of the petitioner were conveyed to the petitioner vide letter dated 20.9.2002 (Annex.8 of the writ petition). A representation dated 15.10.2004 against the advisory remarks of the petitioner was placed before a Committee of Hon'ble Judges including Chief Justice, constituted for the purpose by the Hon'ble Chief Justice and decision of Hon'ble Committee dated 10.12.2004, was accordingly communicated to the petitioner vide letter dated 11.1.2005 (Annexure-9 of the writ petition)."

5. Counsel for the respondent has also shown us the complete record right from 1979 to 2009 wherein in view of the committee decision which was taken for continuous 5 years out of 7 years were not found in any of the relevant year though his case was considered thrice but he was not considered eligible for special selection grade or super time scale.

6. The counsel for the respondent has strongly relied upon judgment of the Supreme Court in the case of Syed T.A. Naqshbandi & ors. v. State of Jammu & Kashmir & ors., reported in (2003) 9 SCC 592 more particularly in Para 10, wherein it was held as under:

"Neither the High Court nor this Court, in exercise of its powers of judicial review.

could or would at any rate substitute themselves in the place of the Committee/ Full Court of the High Court concerned, to make an independent reassessment of the same, as if sitting on an appeal. On a careful consideration of the entire materials brought to our notice by learned counsel on either side, we are satisfied that the evaluation made by the Committee/Full Court forming their unanimous opinions is neither so arbitrary or capricious nor can be said to be so irrational as to shock the conscience of the Court to warrant or justify any interference. In cases of such assessment, evaluation and formulation of opinions a vast range of multiple factors play a vital and important role and no one factor should be allowed to be overblown out of proportion either to decry or deify an issue to be resolved or claims sought to be considered or asserted. In the very nature of things it would be difficult nearing almost an impossibility to subject such exercise undertaken by the Full Court, to judicial review except in an extraordinary case when the Court is convinced that some monstrous thing which ought not to have taken place has really happened and not merely because there could be another possible view or someone has some grievance about the exercise undertaken by the Commissioner/Full Court."

7. We have also gone through the original record and considered the criteria has which has been laid down under the Rules. We are of the opinion that the view taken by the committee of the High Court which has been approved by the Full Bench, is in consonance with rules and in view of the decision of the Supreme Court (Supra), the decision is required to be affirmed and the same is affirmed. The petition is devoid of merits, hence dismissed.