

(2019) 08 RAJ CK 0277
In the Rajasthan High Court
Case No : Civil Writ Petition No. 10930 Of 2019

Dana Ram Choudhary

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 07-08-2019

Acts Referred:

Rajasthan Educational Subordinate Service Rules, 1971 — Rule 6D

Citation : (2019) 08 RAJ CK 0277

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Pramendra Bohra, Vishal Jangid, Hemant Choudhary

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioner aggrieved against orders dated 11.07.2019 (Annexure-8) and 12.07.2019 (Annexure-9), whereby, the representation made by the petitioner has been rejected and petitioner has been posted at Khajuwala.

It is, inter alia, submitted by learned counsel for the petitioner that the petitioner has to his credit degree of B.Com. & B.Ed. The petitioner was accorded appointment by order dated 07.09.1987 as Teacher Gr.-III. Whereafter, in Shala Darpan the level of the petitioner has been indicated as Grade-III, Level-2 and subject has been indicated as General as the petitioner is having B.Com., he is a Commerce teacher.

Further reference has been made to certain documents pertaining to petitioner's profile, wherein, his original post has been indicated as Teacher Gr.-III, Level-2, however, he has shown to be working against the post of Teacher Gr.-III Level-1. It is submitted that petitioner was subjected to setup change by order dated 07.07.2015 under Rule 6D of the Rules of 1971. Whereafter by order dated 08.06.2019 (Annexure-5) the petitioner's name was indicated for counselling and after counselling by order dated 11.06.2019 by indicating the petitioner as

Teacher Level-1, he has been posted at Khajuwala.

The petitioner made a representation indicating his personal difficulties and the fact that as the petitioner has done his B.Ed., he cannot be treated as Teacher Level-1. Whereafter, by order dated 11.07.2019 (Annexure-8) the representation made by the petitioner was rejected and it was ordered that he be relieved pursuant to the order of transfer for Khajuwala.

Learned counsel for the petitioner submitted that admittedly the petitioner is a Teacher Gr.-III, Level-2 and, therefore, the action of the respondents in posting the petition by indicating him as Teacher Level-1 is ex facie incorrect and against the law.

Submissions have been made that Division Bench in Kailash Chandra Harijan & Ors. : State of Rajasthan & Ors. : 2006 (1) CDR 750 (Raj.) has laid down that a Teacher with B.Ed. cannot be made to work as Teacher Level-1.

A reply to the writ petition has been filed by the respondents, inter alia, indicating that as per the staffing pattern, the respondents have specifically providing that Teacher, who is working with general subject at Level-2 would be posted against the post of Teacher Level-1. Submissions have been made that as the petitioner has done his graduation in Commerce and there is no subject of commerce in classes 1 to 8 and as the petitioner is treated as a General Teacher, on account of the said fact, though the status of the petitioner remains as Teacher Gr.-III, Level-2, he would be working against the post of Teacher Gr.-III, Level-1 till such time that he gets promoted and starts teaching students of Class-9 onwards.

Submissions have been made that even presently the petitioner is working against the post of Teacher Gr.-III, Level-1 and, therefore, the petitioner cannot have any grievance in so far as the posting of the petitioner against the post of Teacher Gr.-III Level-1 is concerned and, therefore, the petition deserves to be dismissed.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

A bare perusal of the writ petition indicates that the entire grievance of the petitioner is on account of subjecting him to transfer from Nokha to Khajuwala. Admittedly, presently also the petitioner, who is a Teacher Gr.-III, Level-2 is working against the post of Teacher Gr.-III, Level-1 at Nokha, qua which, the petitioner has apparently no grievance and in any case no such grievance was raised by the petitioner for all this period. Apparently on account of the transfer being made by the respondents, the present plea regarding posting of the petitioner to work against the post of Teacher Level-1 has been raised, which plea apparently is baseless.

As the respondents have clearly indicated that the petitioner continues to have status of Teacher Gr.-III, Level-2, however, on account of his subject being

general and the Commerce subject being not available in Class-1 to 8, he would be working against the post of Teacher Gr.-III, Level-1 and as and when the occasion arises he would be promoted and would be teaching students of Class-9 onwards where there is subject Commerce, the action of the respondents cannot be faulted.

So far as the judgment in the case of Kailash Chandra Harijan (*supra*) is concerned, the determination made therein does not advance the cause of the petitioner as it has been laid down that teachers with B.Ed. can teach Upper Primary classes.

In view of the above fact situation, which is not in dispute, no case for interference in the present petition is made out. There is no substance in the writ petition, the same is, therefore, dismissed.