
(2008) 04 RAJ CK 0076
In the Rajasthan High Court

Devi Singh

APPELLANT

Vs

The Commissioner and Secretary and Others

RESPONDENT

Date of Decision : 02-04-2008

Acts Referred:

Citation : (2008) 04 RAJ CK 0076

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajay Rastogi, J.—Instant petition has been filed by petitioner assailing order dated 11th April, 2001 passed by Rajasthan Civil Services Appellate Tribunal.

2. Petitioner, who was working as Assistant Sub-Inspector, initially joined service as Constable on 9th June, 1967, filed representation that one Shri Pothi Prasad, who is junior to him, is getting higher pay in comparison to him thus he is entitled for stepping up of his pay. On his said representation, his pay was also stepped up vide order dated 6th April, 1995 and certain monetary benefits were also paid to him. Later on, it revealed that so-called alleged junior Pothi Prasad was fixed on furnishing option, which was called for under Revised Pay Scale

3. Rules, 1989 on 1st September, 1990 and such matters are not covered for stepping up of pay in terms of Rule 14(b)(iv) of the Rules, 1989 and accordingly, the order by which he was given benefit of stepping up of pay dated 6th April, 1995 was cancelled against said order dated 9th March, 1999 Ann. 4 petitioner preferred appeal before the Tribunal No. 596/99. While accepting plea of petitioner that before passing order reasonable opportunity of hearing was not afforded to him directed that petitioner may now be permitted to make representation and the same be decided in accordance with law and with these directions, the appeal was disposed of vide order Ann. 7 dated 22/9/99. Respondents afforded opportunity to petitioner and his representation was duly considered and a reasoned order was passed on 25th March, 2000 [Ann. 8]

whereby the order earlier passed on 9th March, 1999 Ann. 4 was restored and it was directed to make recovery from petitioner. This order was again challenged by petitioner before the Tribunal and at this stage, the matter was examined on merits and it was observed that petitioner took benefits of revised pay from 1/1/98 and Shri Pothi Prasad who is junior to petitioner as alleged he got fixation of pay on furnishing option as invited under Rules, 1989 w.e.f. 1st September, 1990 and in terms of Rule 14(b)(iv) of Rules, 1989 such matters are not covered for stepping of pay and accordingly, dismissed the appeal preferred by petitioner vide order dated 11th April, 2001 Ann. 11 which has been assailed by petitioner in the instant petition.

4. Counsel for petitioner submits that initially the order which was passed by respondents on 9th March, 1999 was in clear violation of principles of natural justice and even if order is legally sustainable still respondents were not justified in making recovery, since there was no misrepresentation made by him and in support of his submission, counsel has placed reliance on the judgment of this Court in Subhkaran Gaur v. State of Rajasthan 2000 WLC UC 289.

5. Counsel for respondents have filed reply to the writ petition and supported the finding recorded by Tribunal and submits that petitioner choose to take the benefits of revision of pay from 1st January, 1998 whereas Pothi Prasad had opted from 1st September, 1990 and it cannot be considered to be an anomaly which entitled petitioner to step up of his pay and accordingly, no error has been committed by Tribunal which may call for interference.

6. I have considered the submission of both the counsel and perused the material on record.

7. Respondents in their reply has given complete chart of fixation of petitioner and so also of Pothi Prasad and under the Revised Pay Scale Rules, 1989 option was called for and petitioner as per option furnished took the benefits of revised pay from 1.1.98, but at the same time Pothi Prasad took benefits on furnishing option on 1.9.90 which was not the case of anomaly in the fixation of pay and petitioner was not entitled to get his pay stepped up on the premise that Pothi Prasad was junior to him and was getting higher pay in comparison to him.

8. This Court after going through the order does not find any infirmity which may call for interference.

9. As regards judgment in Subhkaran Gaur v. State of Rajasthan [supra] is of no assistance to him for the reason that it was a case where person had worked on higher post and for the period of his working salary was paid to him. The question arose whether salary paid can be recovered from him or not which is not the situation in the instant case.

10. Consequently, I find no force in the writ petition, the same stands dismissed.