
(1981) 12 RAJ CK 0004

In the Rajasthan High Court

Case No : Civil Special Appeal No. 344 of 1980 and 3 of 1981

D.K. Goyal and Others

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 04-12-1981

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1981) WLN 327

Hon'ble Judges : Milap Chand Jain, J;K.S. Sidhu, J

Bench : Division Bench

Judgement

K.S. Sidhu, J.—The only point which fails for determination in the two sister appeals listed above is whether the respondent, Raghuveer Singh Solanki, is eligible for appointment to the post of Assistant Engineer (Civil) by promotion on urgent temporary basis in accordance with the Rajasthan Ground Water Service Rules. 1969. It has arisen in the following circumstances.

2. Raghuveer Singh Solanki was employed at the material time as a Senior Surveyor in the Ground Water Department, Government of Rajasthan D.K. Goyal (appellant in D.B. Civil Special Appeal No. 344 of 1980) and Shakti Singh (a respondent in both the appeals) were posted at that time as Overseers in the same department. Four vacancies occurred in the cadre of Assistant Engineers (Civil) in 1979. The Chief Engineer concerned required these vacancies to be filled up immediately on urgent temporary basis He recommended the names of four senior most engineering subordinate (Civil) for appointment by promotion on urgent temporary basis as Assistant Engineers (Civil). Raghuveer Singh Solanki, being the senior-most among the said four, was recommended at "number one of the list of four. Shakti Singh and D.K. Goyal, aforementioned figured at, No. 2 and, 4 of the said list. The Government of Rajasthan accepted Recommendation in respect of Shakti Singh and D.K. Goyal and appointed them as Assistant Engineers (Civil) on temporary basis. It declined the recommendation regarding Raghuveer Singh Solanki, who was thus deprived of

temporary appointment as Assistant Engineer (Civil).

3. Raghuveer Singh Solanki changed the decision of the Government as arbitrary and filed a writ petition (No. 539 of 1980) under Article 226 of the Constitution for an order directing the Government to quash the appointment as Assistant Engineers (Civil) of Shakti Singh and D.K. Goyal, and to consider the petitioner for appointment as such in preference to them.

4. By his judgment dated October 10, 1983; a learned Single Judge of this Court allowed the said writ petition by issuing a direction to the Government as follows:

The petitioner Raghuveer Singh is held to be eligible to the post of Assistant Engineer in the Ground Water Department of the State of Rajasthan. The respondent No. 1, the State of Rajasthan is directed to consider and appoint the petitioner on the post of Assistant Engineer (Civil) from the date respondents No. 2 and 3 have been appointed on urgent temporary basis only. He should be allowed all the consequential benefits of emoluments in relation to pay and allowances. The petitioner would get his costs from respondent No. 1.

5. Aggrieved by the aforesaid judgment and order of the learned Single Judge, D.K. Goyal, who was arrayed as respondent No. 3 in the writ petition filed a special appeal (No. 344 of 1980) praying for reversal of the order of the learned Single Judge and for dismissal of the writ petition. The State of Rajasthan, which had been impleaded as respondent No. 1 in the writ petition, followed suit and filed special appeal registered as No. 3 of 1981, for similar relief as prayed in the earlier appeal filed by D.K. Goyal. Both of these appeals will be disposed of by this judgment.

6. We may straight away point out that though we agree with the learned Single Judge that Raghuveer Singh Solanki was eligible, at the material time for appointment by promotion on urgent temporary basis as Assistant Engineer (Civil), learned Judge was not justified in issuing a peremptory direction to the Government to "consider and appoint" him as such. The only direction that could possibly be issued, in the circumstances of the case, was to require the Government to consider Raghuveer Singh's case afresh in the light of the finding that he was eligible at the material time for appointment on temporary basis as Assistant Engineer (Civil).

7. Now, so far as the eligibility of Raghuveer Singh is concerned, it has admittedly to be determined on the basis of the entry at serial number 13 in column 6 of the Schedule appended to the Rajasthan Ground Water Service Rules, 1969. Column 6, which gives "minimum qualification and experience for promotion" for the post of Assistant Engineer (Civil), and required that an Engineering Subordinate must have 8 years' experience. On the post of Engineering Subordinate (Civil), if he is a matriculate, and in addition to that, he must possess proficiency certificate recognised by Government in order to qualify him for promotion as Assistant Engineer (Civil). It is not denied that Raghuveer Singh Solanki is a matriculate and had experience on the post of Engineering

Subordinate (Civil) for 8 years. The only point of controversy, as stated, is whether he did not possess the proficiency certificate recognised by the Government.

8. The certificate, on which Raguveer Singh Solanki relies, has been reproduced by the learned Single Judge in the judgment under appeal and we think that it would be convenient to reproduce that certificate in this judgment as well. It reads as under:

GOVERNMENT OF INDIA

MINISTRY OF LABOUR AND EMPLOYMENT

NATIONAL COUNCIL FOR TRAINING IN VOCATIONAL TRADES

DUPLICATE

NATIONAL TRADE CERTIFICATE

Shri R.S. Solanki son of Shri Onkar Singh having completed the course of Training at Industrial Training Institute, Kota and passed the prescribed trade test in the trade of SURVEYOR HELD on 27th July One Thousand Nine Hundred and Sixty is awarded this Trade Certificate.

sd/- Sd/- Secretary Secretary State Council Training National Council Training in Vocational Trades in Vocational Trades 9. Raghuvver Singh Solanki's case is that this is the requisite proficiency certificate and that the same had been recognised by the State Government as such in 1960. The order of the Government, which is cited as a recognition by the Government of the aforementioned proficiency certificate reads as under:

GOVERNMENT OF RAJASTHAN

INDUSTRIES (C) DEPARTMENT

No. D.12855/F9 (71) Ind. (c)/59 Dated Jaipur, the 19th/20th January, 1960

ORDER

Government has been pleased to order that the Diploma awarded under the Craftsmen/Displaced Persons Training Scheme to the successful trainees by the Director General of Resettlement and Employment, Ministry of Labour and Employment, Government of India, under the aegis of the National Council for Training in Vocational Trades may be recognised as equivalent to Diploma/Certificate under the Craftmen Training Scheme for appointment in all Trades in the State of Rajasthan in Subordinate Services.

BY ORDER OF THE GOVERNOR

Sd/-

(P.K. Chaturvedi)

Secretary to the Government.

10. The argument which was raised before the learned Single Judge, and which has been reiterated before us on behalf of the present appellant, is to the effect that the certificate granted by the National Council for Training in Vocational Trades to Raghuveer Singh, as reproduced above, is not a diploma and that, in any case, the said certificate has not been recognised by the Government for appointment in the State Services of Rajasthan. This argument is, in our opinion, wholly devoid of force. The certificate in question may not be a diploma, strictly so called, but it is certainly a proficiency certificate in that it certifies that Raghuveer Singh had passed the prescribed trade test in the trade of Surveyor. The order, dated January 19/20, 1960, issued by the Government of Rajasthan, as reproduced above, makes it clear beyond any doubt that the Certificate granted by the National Council for Training in Vocational Trades, such as the one granted to Raghuveer Singh, may be recognised as "equivalent to diploma/certificate under the Craftsmen Training Scheme for appointment in all Trades in the State of Rajasthan in the Subordinate Services, The terminology used in this order further shows that the words diploma and certificate have been used there inter-changeably, in as much as it provided that a diploma awarded by the National Council for Training in Vocational Trades may be treated as equivalent to a diploma or a certificate under the Craftsmen Training Scheme for appointment in the Subordinate Services of Rajasthan.

11. The connected argument that the Government has recognised the certificate in question as equivalent to a diploma/certificate under the Craftsmen Training Scheme for appointment merely in the Subordinate Services of Rajasthan, and not in the State Services of Rajasthan, is equally devoid of force. Of course, the certificate in question is recognised for appointment in the Subordinate Services of Rajasthan. That is perhaps why Raghuveer Singh, who possessed this certificate was confirmed as a Senior Surveyor in a subordinate service of Rajasthan. So far as the question of eligibility of Raghuveer Singh for promotion to the post of Assistant Engineer (Civil) is concerned, such eligibility is to be determined on the basis that he had, at the material time, 8 years experience as a Surveyor and that, besides being a matriculate, he possessed the proficiency certificate recognised by the Government as equivalent to diploma/certificate under the Craftsmen Training Scheme for appointment in all Trades, including the trade of Surveyor, in the State of Rajasthan. The entry at serial number 13, in column 6 of the Schedule of the Rajasthan Ground. Water Service Rules, 1969 deals with "minimum qualification and experience for promotion "to the post of Assistant Engineer (Civil) in the Survey and Research Wing of the State Service. It is in that context that the minimum qualification and experience is prescribed as "8 years experience for those who are matriculates and possess proficiency certificate recognised by Government". If Raghuveer Singh is a matriculate, which he is, and if he has 8, years experience on the post of an Engineering Subordinate, which he has, and if he also possesses proficiency certificate recognised by Government, which he does possess it is obvious that he fulfills

the "minimum qualifications and experience for promotion" to the post of Assistant Engineer (Civil) as provided in column 6 of entry 13 of the Schedule.

12. Another argument raised on behalf of the appellants is that since the Government has found Raghuveer Singh to be ineligible for appointment by promotion to the post of Assistant Engineer (Civil), it must be held by that token alone, that the certificate which Raghuveer Singh possesses has not been recognised as a proficiency certificate. This argument does not carry any conviction for the simple reason that the question whether the Government has recognised a particular certificate or not cannot be allowed to be determined in this ad hoc manner for a particular case. It can only be determined on the basis of the order issued, which is of a general and universal application.

13. We have, therefore, no hesitation in affirming the finding of the learned single Judge that Raghuveer Singh, was eligible at the material time for appointment to the post of Assistant Engineer (Civil) by promotion on urgent temporary basis in accordance with the Rajasthan Ground Water Service Rules, 1969. The learned Judge rightly issued a direction to the State Government of Rajasthan to consider Raghuveer Singh's case afresh in the light of that finding. His further direction requiring the Government to appoint Raghuveer Singh as Assistant Engineer (Civil) is not sustainable. The Government must be left free to take its own decision on the merit of the case. The two appeals are, therefore, partly allowed. While affirming the direction to the State Government requiring it to consider afresh the case of Raghuveer Singh for promotion on urgent temporary basis as Assistant Engineer (Civil) with reference to the material time in the light of the aforementioned finding regarding his eligibility, we would quash the further direction requiring the Government to appoint Raghuveer Singh as Assistant Engineer (Civil). The Government may or may not appoint him depending on his merit, suitably and fitness for the said post. The parties are left to bear their costs throughout.