
(2002) 04 RAJ CK 0029
In the Rajasthan High Court
Case No : Civil Writ Petition No. 5955 of 1991

Ghanshyam

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 16-04-2002

Acts Referred:

Rajasthan Subordinate Offices Ministerial Staff Service Rules, 1957 — Rule 27

Citation : (2002) 4 RLW 2515 : (2002) 3 WLN 584

Hon'ble Judges : Sunil Kumar Garg, J

Bench : Single Bench

Advocate : M.S. Singhvi, for the Appellant; Govind Mathur and Hemant Choudhary, for the Respondent

Final Decision : Allowed

Judgement

Garg, J.—In this writ petition, the only question to be considered is whether the seniority of the petitioner should be reckoned from the date of initial appointment or from the date of confirmation.

2. The petitioner was appointed as LDC vide order dated 5.3.1973 (Annex. 1 to the writ petition) and he was confirmed with effect from 28.2.1977 vide Annex. 4. The case of the petitioner is that some of the respondents have been made senior to him though they were initially appointed subsequent to his appointment and, therefore, he should have been made senior to them. Hence, it was prayed by the petitioner that the order dated 31.10.1991 (Annex. 17 to the writ petition) by which seniority of the respondents No. 3 to 8 over the petitioner was made, be declared illegal and be quashed. The petitioner has also prayed that the expression "from the date of confirmation" in Rule 27 of the Rajasthan Subordinate Officers Ministerial Staff Rules, 1957 (hereinafter referred to as the "Rules of 1957") be declared ultra vires and unconstitutional and be struck down.

3. I have heard the learned counsel appearing for the parties and perused the materials available on record.

4. The learned counsel appearing for the petitioner submits that this writ petition is squarely covered by the judgment of this Court passed in S.B. Civil Writ Petition No. 3712/2000 (decided on 21.11.2000) where it was held that the seniority should be reckoned from the date of initial appointment and in that judgment, the expression "from the date of confirmation" in Rule 27 of the Rules of 1957 was declared ultra vires and unconstitutional and thus, it was struck off and in coming to the said conclusions, this Court placed reliance on the decisions in Rajnish Pareek vs. Bhilwara-Ajmer Kshetriya Gramin Bank and Ors. (1) and Rudra Kumar Sain vs. Union of India & Ors. (2).

5. Thus, the position is that the seniority should be reckoned from the date of initial appointment and not from the date of confirmation.

6. The above position has not been controverted by the learned counsel appearing for the respondents No. 1 and 3.

7. When this being the position, the impugned order dated 31.10.1991 (Annex. 17) cannot be sustained and this writ petition deserves to be allowed in terms of the decision of this Court in S.B. Civil Writ Petition No. 3712/2000 (decided on 21.12.2000).

Accordingly, this writ petition filed by the petitioner is allowed and the impugned order dated 31.10.1991 (Annex. 17) is set aside and the respondents No.1 and 2 are directed to redetermine the seniority of the petitioner as well as some of the respondents afresh within a period of three months from the date of receipt of a certified copy of this order, keeping in mind the observations made above.