
(1993) 01 RAJ CK 0016
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4557 of 1990

Govind Singh

APPELLANT

Vs

State of Raj.

RESPONDENT

Date of Decision : 12-01-1993

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226, 309

Citation : (1993) 1 RLW 737 : (1993) 1 WLC 533 : (1993) WLN 12

Hon'ble Judges : N.K. Jain, J; Jasraj Chopra, J

Bench : Division Bench

Judgement

N.K. Jain, J.—By this writ petition filed under Article 226 of the Constitution of India, the petitioner seeks a direction that the respondent State be directed to include officers of the Rajasthan Accounts Service in the Schedule appended to the Rajasthan Civil Services (Special Selection and Special Conditions of Service of Project Directors and Project Officers) Rules, 1975 or otherwise to quash the Schedule being discriminatory and violative of Article 14 and 16 of the Constitution and also prayed for a direction not to proceed with the selection till its decision.

2. The facts necessary to be noticed for the disposal of this writ petition briefly stated are that the petitioner, a member of Rajasthan Accounts Service, was initially appointed as Accounts Officer on 24.11.82 and presently he is posted at Jaisalmer in Indira Gandhi Canal Project in Senior Scale. It is also alleged that he remained as Accounts Officer in the District Rural Development Agency (hereinafter referred to as "the DRDA") from 5.6.1986 to 10.8.87, and worked as Officer Incharge of some of the projects/works viz. Desert Development Programme, Coordinator Panchayat Samiti, Luni and Mandore; Officer Incharge, Purchase Committee as deputed by ADM (Dev), Jodhpur, Officer Incharge, Family Planning Ward No. 17 at Jodhpur etc. The main grievance of the petitioner is that the members of the Rajasthan Accounts Service have not been included in the Schedule which has been appended to the Rajasthan Civil Services (Special

Selection and Special Conditions of Services of Project Directors and Project Officers) Rules, 1975 whereas the members of other services have been included and made eligible for appointment to the post of Project Director and Project Officers, thus this is discriminatory and violative of Article 14 and 16 of the Constitution of India. The respondent in its reply has denied the execution of works alleged to have been done by the petitioner as Officer Incharge and submitted that he discharged only those functions which were related to his cadre as an Accounts Officer. It is also denied that the DRA is concerned with the milk producers and collection of milk. The respondent has admitted that under the Rules of 1975, for the recruitment to the tenure posts of Project Officers and Project Directors, the Rajasthan Accounts Services has not been included: It is also stated that since the personnel of this service are exclusively dealing in accounts works, which in itself is a special work, the State Government did not include this service in the Schedule appended to the Rules of 1975. It is further submitted in the reply that the persons like the petitioner are not entrusted with the duties of monitoring particular works, and they are taken on deputation to look after the accounts work. The petitioner also files a rejoinder stating that the pay scales and status of the persons belonging to the Rajasthan Accounts Service is higher than quite a few services, members of which have been made eligible for consideration for appointment to the post of Project Director and Project Officer.

3. Mr. Mridul, learned Counsel for the petitioner has submitted that the "Schedule" (Anx. 3) regarding Project Director appended to the Rules is discriminatory and liable to be quashed being violative of Articles 14 and 16 of the Constitution of India. He has submitted that when the members of Rajasthan Employment Service, Rajasthan Cooperative Service, Members of Rajasthan Evaluation Service and Rajasthan Mines and Geology Service have been included the petitioner being a member of Rajasthan Accounts Service is also entitled for seeking appointment particularly when pay scales and status of other services made eligible for seeking appointment are lower than that of Rajasthan Accounts Service and more so the petitioner has also worked in the DRDA as Officer Incharge.

4. Mr. Vyas, learned Addl. G.A. has submitted that the Schedule is not violative if Articles 14 & 16 and no interference is called for.

5. We have heard learned Counsel for the parties and perused the material on record.

6. The short question which arises for consideration in this writ petition is that by not including the Rajasthan Accounts Services in the Schedule appended to the Rules of 1975, whether the same can be quashed being violative of Articles 14 and 16 of the Constitution.

7. The equality clause contained in Article 14 requires that all persons subject to any legislation should be treated alike under like circumstances and conditions.

Equals have to be treated equally and unequals ought not to be treated equally. This article forbids class legislation, but it does not forbid classification for purposes of implementing the right of equality guaranteed by it. The classification must not be arbitrary but must be rational, and there must be a nexus between the basis of classification and the object of the Act under consideration.

8. The DRDA is constituted to execute various development schemes and for undertaking financing and monitoring the works of Dam construction, Anicut, Khadins, the watersheds, sand-dune establishment, protection of village forests, Digging of wells, Undertaking surveys; Boring Tube-wells, Animal Husbandry, holding of meetings for the aforesaid purpose, distribution of seeds, development of pasture land etc. There are rules for special selection and conditions of Service of Officers for appointment as Project Directors and Project Officers on deputation to the various Special Development Projects in Rajasthan framed in the exercise of Article 309 of the Constitution known as the Rajasthan Civil Services (Special Selection and Special Conditions of Service of Project Directors and Project Officers) Rules, 1975 and the services, members of which are eligible for appointment have been mentioned in the Schedule under challenge. A bare perusal of the Schedule shows that in this "Schedule" only holders of certain posts in those services have been included who are drawing pay of Rs. 3000/- and above Rs. 3000/- and the members of those services are required to have three years experience whereas the petitioner, a member of Rajasthan Accounts Service is in the pay scale of Rs. 2200-4000/- and the pay scale of Project Director is 4100-5300. Therefore, in view of the difference of pay scales and reply filed by the State that the petitioner and like others done only accounts work and was not entrusted with the work of monitoring, it cannot be said that the classification is arbitrary and discriminatory. Thus, the non-inclusion of the members of Rajasthan Accounts Service as such in the Schedule is not violative of Articles 14 and 16 of the Constitution and no relief can be granted to the petitioner, on this count. Mr. Mridul, has frankly conceded and has abandoned the challenge to the validity of the Schedule as regards the inclusion of members of Rajasthan Accounts Service for being selected as Project Officer.

9. Mr. Mridul has, however, submitted who are now placed in Senior Scale in the pay scale of Rs. 3000-4500 and working as Senior Accounts Officers having three years experience may be included in the "Schedule" as they are drawing pay of Rs. 3,000/- or above. So far as this argument is concerned, it appears to be reasonable particularly when there is no difference in the pay scales of Senior Scale, Raj. Accounts Service and the members of other services specified in the Schedule including officers of Rajasthan Employment Service, Rajasthan Cooperative Service, Rajasthan Evaluation Service and Rajasthan Mines and Geology Service moreso when members of these services have not direct relation with the various development schemes undertaken by the DRDA and in the reply the State has not been able to show on what basis they have been included in the Schedule as the burden of establishing the reasonableness of a classification

and its nexus with the object of the legislation is on the State. On the other hand the persons placed in the Senior Scale of Rajasthan Accounts Service have some connection and nexus with the functioning of the DRDA as they prepare budgets and handle financial matters in different departments. Therefore, to this extent, in our considered opinion the action of (he Government by not including the members of Senior Scale, Rajasthan Accounts Service in the Schedule becomes discriminatory, unjust and arbitrary. But despite that this Court should not interfere as we are aware that the power to frame Rules is legislative in character and no court can direct a legislature to enact a particular law as it is for the Government to decide upon the considerations which, in its judgment, should underline a policy to be formulated by it and to consider within its wisdom the case of such members of Rajasthan Accounts Service on the basis of their pay scale and experience vis-a-vis the task of work and keeping in view the fact that the origin of the other services already included in the Schedule as also the Rajasthan Accounts Service is a combined competitive examination. In this view of the matter, the respondent State is directed to consider the case of members placed in Senior Scale of Rajasthan Accounts Service for including them in the Schedule for appointment on the post of Project Director in the DRDA within a period of six months from the receipt of the order in the light of aforesaid observations.

10. In the result, this writ petition stands disposed of with the above observations.