
(2019) 12 RAJ CK 0110
In the Rajasthan High Court
Case No : Civil Writ Petition No. 18131 Of 2019

Gulab Choudhary	Vs	APPELLANT
State Of Rajasthan And Ors		RESPONDENT

Date of Decision : 17-12-2019

Acts Referred:

Citation : (2019) 12 RAJ CK 0110

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Vishal Sharma, Naman Mohnot, Pankaj Sharma, Deepak Chanda, Rishi Soni

Final Decision : Disposed Of

Judgement

This writ petition has been filed by the petitioner aggrieved against orders dated 18.11.2019 (Annexure-21) and corrigendum dated 26.11.2019 (Annexure-22) alongwith order dated 01.02.2019 (Annexure-9) passed by the Rajasthan Civil Services Appellate Tribunal ('Tribunal').

The petitioner and respondent No. 4 were transferred by order dated 27.05.2018 to Kuchaman City and Nagaur, respectively.

Feeling aggrieved, respondent No. 4 filed an appeal before the Tribunal, which appeal was allowed on 14.06.2018 on account of non-payment of T.A./D.A. to the respondent No. 4 while transferring him.

An order dated 26.07.2018 (Annexure-4) was passed by the respondents ordering for payment of T.A./D.A.

The respondent No.4 again challenged the order dated 26.07.2018 before the Tribunal, which order was also set aside by order dated 31.08.2018 (Annexure-5) by the Tribunal.

Whereafter, an order dated 11.01.2019 (Annexure-8) was issued by the respondents holding that as the respondent No. 4 did not hold the requisite

qualification, he was ordered to be transferred to Ugarpura, Nagaur and the petitioner was retained at Kuchaman City.

Against the order dated 11.01.2019 respondent No. 4 again approached the Tribunal, which by its order dated 01.02.2019 (Annexure-9) stayed the operation of the order.

Whereafter, by order dated 18.11.2019 (Annexure-21), on account of petitioner and respondent No. 4 both working on the same post and noticing that respondent No. 4 had an interim order in his favour, the petitioner was directed to be adjusted at Ugarpura, Nagaur.

The said order dated 18.11.2019 was modified by order dated 26.11.2019 by correcting the same from Ugampura, Nagur to Ugarpura, Nagaur.

Whereafter, feeling aggrieved by the said orders dated 18.11.2019 and 26.11.2019 (Annexures-21 & 22) the petitioner approached this Court and also challenged the order dated 01.02.2019 passed by the Tribunal.

By order dated 10.12.2019 it was expected of the Tribunal to deal with the appeal on the next date and in any case decide the stay application.

It is submitted by learned counsel for the petitioner that the appeal filed by respondent No. 4 has been rejected by order dated 13.12.2019 by the Tribunal.

Submissions have been made that as the order dated 18.11.2019 was passed by the respondents on account of grant of interim order, which interim order now stands merged in the final order, whereby, the appeal itself has been rejected, the petitioner is entitled to be posted back at Kuchaman City.

Learned counsel appearing for the respondent No.4 made submissions that once the orders Annexures-21 and 22 have been passed and implemented, merely on account of rejection of the appeal, the petitioner cannot seek posting back at Kuchaman City.

Learned Additional Advocate General submitted that on account of rejection of the appeal by the Tribunal, presently the post at Kuchaman City would be vacant as the petitioner has already been adjusted at Ugarpura, Nagaur and respondent No. 4 on account of vacation of interim order, cannot now remain at Kuchaman City.

In overall fact situation of the case, wherein, the impugned order dated 18.11.2019 corrected by 26.11.2019 was passed by the respondents on account of interim order granted by the Tribunal, pendency of the appeal and the fact that two persons were working on the same post, once the appeal filed by respondent No. 4 has been rejected, the consequences must follow.

Merely because following the order passed by the respondents the petitioner has joined at Ugarpura cannot be a reason to continue to maintain the same status, which came into existence on account of passing of the order dated 18.11.2019,

even otherwise, post at Kuchaman City is now vacant.

In view of the above fact situation, the petition filed by the petitioner is disposed of. The respondents are directed to pass appropriate orders pursuant to the dismissal of the appeal filed by respondent No. 4 keeping in view the observations made hereinbefore.

Needful may be done by the respondents within a period of one week.