

(1992) 02 RAJ CK 0024
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3093 of 1988

Jagdish Prasad Dave

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 13-02-1992

Acts Referred:

Citation : (1992) 1 WLC 1 : (1992) WLN 43

Hon'ble Judges : Rajesh Balia, J

Bench : Single Bench

Judgement

R. Balia, J.—The petitioner was appointed as Civil Mistri on work-charge basis on 8.1.1973. While the petitioner contends that he has been made to discharge the functions of Lower Division Clerk, the respondents have denied it. The petitioner contends that he was required to discharge the duties of L.D.C. and, therefore, his services may be regularised on the post of L.D.C. and not as Civil Mistri or, Li alternate, the vacancies of Civil Mistri Grade-I may be determined in accordance with the Rules and his case for promotion from Civil Mistri Grade-II to Civil Mistri Grade-I may be considered. While the facts about petitioner having discharged the duties of L.D.C. during his appointment as Civil Mistri is disputed and on that basis, it is contended that the petitioner is not entitled to be regularised on the post of L.D.C, however, during the pendency of the writ petition, the Rajasthan Sub-ordinate Service (Ministerial Staff) Rules, 1957 (hereinafter called "the Rules of 1957") were amended by a notification dated 18.12.1989 in which a further proviso to Clause (b) of Sub-rule (1) of Rule 7 was inserted, relevant portion of which is reproduced below:

bu fu;eksa esa vUrfoZ"V fdlh izfrQy ckr ds gksrs gq, Hkh mu O;fDr;ksa dks tks lk fu fo@flapkbZ@vkbZ th ,u ih ?ftlesa vkbZ th ,u ch&lh,Mh lfEefyr gSA? tu LokF; vfHk;kfU=d foHkx@vk;qosZn foHkx] esa dk;ZizHkkfjr vk/kkj ij fu;ksftr gS vkSj ftUgksaus 1@4@88 de ls de nks o"kZ dh fujUrj Isok dj yh gS vkSj ftUgksaus ek?;fed f"kk{kk cksMZ jktLFkku ;k ljdkj }kjk ekU;rk izkIr fdlh cksMZ ls gkbZ Ldwy ;k lSds.Mjh@izosf"kdK ijh{kk mRrh.kZ dh gS] fuEufyf[kr ls feydj cuus okyh

lfefr }kjk mudh mi;qDrrk ds fu/kkZfjr fd, tkus ds i"pkr muds lEcU/k foHkkx dks dfu"B fyfidksa ds fjDr inksa ds izfr 1 vizSy 1988 dks fo/keku dfu"B fyfidksa ds dqy fjDr inksa ds 50 izfr?r dh lhek rd dfu"B fyfid ds in ij fu;fer vk/kkj ij dsoy ,d ckj vfHkfgr fd;k tk ldsxk%

2. In view of this amendment in the rules, the petitioner contends that in any event he is entitled to be considered for being appointed as L.D.C. in the regular establishment against the 50% vacancies as he is otherwise fully eligible to hold the post, It is not disputed by learned by G.A.

3. In view of the aforesaid circumstances, the petition is disposed off, with a direction to the respondents to consider the case of the petitioner for regularisation on the post of L.D.C. in terms of the proviso inserted by the notification dated 18.12.1989, in the Rules of 1957; if he comes within the eligibility zone, within a period of 3 months from today. The petitioner will be paid in the regular pay scale applicable to L.D.C. with effect from the date his services are so regularised under the Rules. There will be no order as to costs.