

(2014) 04 RAJ CK 0165
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3882 of 2002

J.L. Sharma

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 10-04-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 1 CDR 164

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Ankur Mathur, Advocate for the Appellant; B.L. Bhati, Advocate for the Respondent

Judgement

Vineet Kothari, J.—The petitioner was working as Fieldsman in the respondent-Education Department of State of Rajasthan. He has now retired. The prayers made in the writ petition are as under:

"It is, therefore, humbly prayed that this writ petition may kindly be allowed and by issuing an appropriate writ, order or direction:

1) The respondents may kindly be directed to remove the disparity in the matter of grant of selection scale; for the post of Fieldsman in the Education Department and the post of Agriculture Supervisor in the Agriculture Department, upon completion of 15 years" service prior to 25th January, 1992 and after coming into force of the order dated 25th January, 1992, upon completion of 9, 18 and 27 years" service.

2) The respondents may also kindly be directed to allow benefit of these selection scales to Fieldsman in Education Department with effect from the date these became available and applicable, with all consequential benefits, as if same were never denied to the petitioner;

3) The respondents may also kindly be directed to pay interest at the rate of 12% per annum on the arrears, which shall accrue to the petitioner consequent

to grant of selection scale in aforesaid manner;

4) The respondents may also kindly be directed to make suitable amendment, to provide promotional avenues for the post of Fieldsman of Education Department, with all consequential benefits and reliefs, as if same were never denied to them."

The learned counsel for the petitioner, Mr. Ankur Mathur submitted that vide order Annex. P/3 dtd. 1.10.1999, the Secretary of the Education Department had observed in the said order while deciding the representation of the petitioner that the post of Fieldsman in the Education Department can be treated as equivalent to the Agriculture Supervisor of the Agriculture Department of Government of Rajasthan, but not as Laboratory Assistant of the said Agriculture Department. Therefore, the representation made by the petitioner claiming equivalence of the post of Fieldsman with the Laboratory Assistant was rejected by the Secretary vide order dtd. 1.1.1999, (Annex. P/3). The present writ petition was filed by the petitioner on the basis of observations made by the Secretary that the post of Fieldsman can be treated as equivalent to Agriculture Supervisor of the Agriculture Department. The petitioner has claimed the grant of selection scale of the next higher post of Agriculture Supervisor itself on the ground that there was no further promotional avenues available to the Fieldsman in the respondent-Education Department of the State Government on the anvil of the notification dtd. 25.1.1992. Admittedly, the petitioner did not approach the respondent - Education Department itself for deciding his claim of grant of selection scale with respect to pay scale of another Department i.e. Agriculture Department.

2. Prima facie, two departments are independent and the next higher post or pay scale of Education Department would have been relevant for the grant of selection scale in case post on which the petitioner was working and was having stagnation there and no further promotional avenue was available to the said post. Thus it is the ambit and scope of relevant notification dtd. 25.1.1992 also under which such selection grades are given. It was necessary for the petitioner to approach by way of a suitable representation which could be decided by the concerned Authority of the Education Department before the jurisdiction of this Court under Article 226 of the Constitution of India could be invoked by the petitioner. The observations made in the order of the Secretary of Education Department, Annex. P/3 dtd. 1.1.1999 and whether the equivalence of post of Fieldsman in Education Department with Agriculture Supervisor can be made a basis for claiming selection scale of Agriculture Supervisor, is a question yet to be decided by the concerned Secretary of the Education Department. Therefore, this writ petition is considered as premature at this stage. The writ petition is accordingly disposed of with a direction and liberty to the petitioner to approach the concerned Secretary of the Education Department, where he was working and the said Authority is expected to decide such representation by a speaking order preferably after giving an opportunity of hearing to the petitioner within a period of six months from today. If any adverse order is passed against the petitioner, the petitioner can assail the same on valid grounds in appropriate

legal remedy and he will be free to avail legal remedy in accordance with law. No order as to costs. A copy of this order be sent to the parties concerned forthwith.