
(1977) 12 RAJ CK 0016
In the Rajasthan High Court
Case No : Civil Writ Petition No. 914 of 1973

Lajpat Rai Sharma

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-12-1977

Acts Referred:

Rajasthan Educational Subordinate Service Rules, 1971 — Rule 25, 6(3)

Citation : (1977) WLN 672

Hon'ble Judges : D.P. Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.P. Gupta, J.—The petitioner obtained the degree of Master of Science in Mathematics in the year 1965 and thereafter he was appointed as Senior Teacher in Chemistry in a temporary capacity by the order of the Director of Primary and Secondary Education, Rajasthan, Bikaner, dated November 12, 1965. Subsequently, by the order dated August 10, 1967. the petitioner was appointed as a Senior Teacher in Mathematics for a period of six months or till candidates approved by the Rajasthan Public Service Commission (hereinafter referred to as "the Commission") were available or departmental promotions were finalised. The temporary appointment of the petitioner was extended from time to time and the last extension, which was granted in this respect, was by the order dated January 12, 1973 and related to the period of six months from January 1, 1973 to June 30, 1973. The case of the petitioner is that he was allowed to work in the capacity of a Senior. Teacher till June 30, 973 but his services were terminated w.e.f. July 1, 1973 It may also be mentioned here that during the period of temporary employment of the petitioner, the Rajasthan Educational Subordinate Services Rules, 1971 (hereinafter referred to as "the Rules"; came into force. Sub-rule (3) of Rule 6 of the Rules contained a provision for screening of such of the existing employees, who had continuously held the posts included in the service in an ad hoc or officering or temporary capacity, for a period of not less

then six months on December 12, 1971 & also continued to hold such posts. The petitioner was also screened by the Screening Committee, constituted in accordance with the provision of Rule 25 of the Rules he was not selected by the Screening Committee on account of the existence of several adverse entries to his credit during the foregoing years. The Director of Primary and Secondary Education, Rajasthan, by his order dated June 1, 1973 directed that as the petitioner was not found suitable by the Screening Committee his services could not be continued further and were terminated w.e.f. June 1, 1973.

2. The petitioner has challenged in this writ petition the termination of his temporary appointment as a Senior Teacher and it has been argued by his learned Counsel that as the petitioner had worked as a Senior Teacher for a period of more than three years in a temporary capacity, he was entitled to the benefit of the provisions of Rule 23 A of the Rajasthan Service Rules. The petitioner was not appointed in consultation with the Commission and it is not his case that his temporary employment was continued with the concurrence of the Commission. Rule 28 of the Rules, which makes provision for a temporary appointment in the subordinate education service of the State provides that such an appointment will not be continued beyond a period of one year without referring the case to the Commission for its concurrence and shall be terminated immediately on its refusal to concur. It is not the case of the petitioner that the Commission ever concurred in the continuance of his employment as a Senior Teacher. Moreover, Rule 23 A of the Rajasthan Service Rules is not at all applicable to the case of a fixed term employee. The service of the petitioner was extended only upto June 30, 1973 vide order Ex. 8 dated Jan. 12, 1978 and on the expiry of the aforesaid period of six months, for which his service was extended, the petitioner's employment automatically came to an end. In my view, the provisions of Rule 23-A can not be attracted to cases where employment of a person is for a limited duration and the temporary appointment is to be continued upto a date specified in the order of appointment or extension thereof. After the expiry of the extended period of his service, the petitioner's temporary employment ipso facto stood terminated w.e.f. July 1, 1973 in the absence of a further order of extension of his service. The petitioner could not be appointed in a substantive capacity on the post of a Senior Teacher as he was not selected for the post by the Screening Committee constituted under the Rules. In these circumstances, the petitioner could not have raised any objection in respect of the termination of his temporary service w.e.f. July 1, 1973. As a matter of fact, no order was at all required to be passed for putting an end to the temporary employment of the petitioner, as the extended period of his service expired on June 30, 1973 and there being no further extension, his employment was automatically put an end to.

3. The other submission made by the learned Counsel for the petitioner is that the petitioner was discriminated against in as much as some other teachers, namely Inderchand Mathur, Hari Shanker Gupta and Amanullakhan were called for by the Screening Committee & were given an opportunity to explain the

adverse entries made in chief Confidential Rolls but the petitioner was not afforded a like opportunity. This contention of the learned Counsel has also no force in as much as persons who had adverse entries in their confidential reports but either such entries were not communicated to them or whose representations against such adverse entries were pending and had not been decided upto the time of their being screened, had to be afforded an opportunity of hearing by the Screening Committee, as the matter in respect of the adverse entries was yet to be finalised. But so far as the petitioner is concerned, it is an admitted case that the adverse entries in his confidential reports for the years 1967-68, 1968-69 & 1970-71 were duly communicated to him in the year 1972 and that the petitioner did not make any representation in respect of the adverse entries so communicated to him. The conclusion which emerged from the aforesaid conduct of the petitioner clearly was that he did not intend to contest the correctness of the contents of the adverse entries, entered in his annual confidential reports during the aforesaid years. As the petitioner had already been furnished copies of the adverse entries existing against him and had been afforded an opportunity of submitting his representations in respect thereof, it was not necessary for the Screening Committee to afford the petitioner a further opportunity to explain the adverse entries appearing in his annual confidential reports. The Screening Committee having considered the adverse entries appearing in the Annual Confidential Rolls of the petitioner during the successive years, came to the conclusion that the petitioner was not a proper person to be absorbed and retained as a Senior Teacher in the Government Service. I do not find that either the petitioner was unlawfully discriminated against or that the decision of the Screening Committee can be interfered with by this Court on the ground that it failed to afford the petitioner an opportunity of hearing before it. To my mind, the conclusion arrived at by the Screening Committee appears to be based on reasonable and proper appreciation of the material placed before it and does not call for any interference, by this Court.

4. No other point was argued before me.

5. In the result, the writ petition is dismissed. The parties are left to bear their own costs.