
(2003) 04 RAJ CK 0096

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1571 of 1997

Mahaveer Prasad Sharma

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 24-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 3 WLC 252 : (2003) 3 WLN 25

Hon'ble Judges : Sunil Kumar Garg, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sunil Kumar Garg, J.—This writ petition under Article 226 of the Constitution of India has been filed by the petitioner on 10.4.1997 against the respondents with the prayer that by an appropriate writ, order or direction, the respondents be directed that promotions of the employees like the petitioner may be made against upgraded posts or against any future vacancies strictly in accordance with the combined seniority list published by the respondent No. 2 Chief Engineer, Irrigation Department, Jaipur vide Annex. 2 with all consequential benefits and the respondents be further directed not to segregate the combined seniority list of Electrical and Mechanical Department and accordingly, service condition of the petitioner may not be changed by way of changing designation/post from the Junior Engineer (Mechanical) to the Junior Engineer (Electrical).

2. The case of the petitioner as put forward by him in this writ petition is as follows:

The petitioner being diploma holder in Electrical was initially appointed as Junior Engineer in the Department of the respondents. Later on, under Rule 6(3) of the Rajasthan Engineering Subordinate Service (Irrigation Branch) Rules, 1967 (hereinafter referred to as "the Rules of 1967"), the petitioner was appointed as Junior Engineer (Mechanical) from the date of first appointment i.e. 19.1.1966

through order Annex. 1 dated 25.3.1970.

The further case of the petitioner is that under Rule 28 of the Rules of 1967, a final seniority list of substantive Junior Engineers Diploma Holders (Electrical and Mechanical) was published by the respondent No. 2 Chief Engineer, Irrigation Department, Jaipur on 28.4.1987, a copy of which is marked as Annex. 2 and in that seniority list, all Junior Engineers whether they were diploma holders of Electrical or Mechanical were shown combined and the name of the petitioner in that seniority list Annex. 2 was shown at serial No. 162.

The further case of the petitioner is that after publication of seniority list Annex. 2, there was no division between Electrical and Mechanical Engineering Department and there was no separate Electrical Department. According to the petitioner, though he was having a diploma in Electrical, but he was appointed Junior Engineer (Mechanical) through Annex. 1.

The further case of the petitioner is that under the Rules of the Rajasthan Service of Engineers and Research Officers (Irrigation Branch) Rules, 1954 (hereinafter referred to as "the Rules of 1954"), a graduate engineer will be eligible for promotion to the post of Assistant Engineer in three years and diploma holder will be eligible for promotion to the post of Assistant Engineer in ten years. Later on, an amendment was made in the proviso of Rules of 1954 by Notification dated 9.12.1996 by which a new Rule 7-D was introduced and it was provided that the posts of Assistant Engineers, which were so upgraded, would be filled-in 100% by promotion in accordance with the procedure and quota laid down in the Rules of 1954.

The further case of the petitioner is that though there was a combined seniority list of Junior Engineers holding diploma in Mechanical and Electrical, but the respondents have promoted Junior Engineers holding diploma in Mechanical separately to the post of Assistant Engineers (Mechanical) through order Annex. 4 dated 26.2.1997 and the Junior Engineers holding diploma in Electrical separately to the post of Assistant Engineers (Electrical) through order Annex. 5 dated 4.3.1997. According to the petitioner, since he was initially appointed as Junior Engineer (Mechanical) by the respondents through order Annex. 1, therefore, he should have been given promotion to the post of Assistant Engineer from the quota of Mechanical Engineers and not from the quota of Electrical Engineers.

According to the petitioner, the aforesaid promotions made through Annexes. 4 and 5 have caused injustice to the petitioner as his name was shown in the list of Junior Engineers (Electrical) and not in the list of Junior Engineers (Mechanical).

According to the petitioner, it is really pity to order for blocking of career of the serving personnel who are rendering their services as Junior Engineer (Mechanical) and now suddenly, named them as Junior Engineer (Electrical) after serving more than 31 years in Mechanical.

The petitioner made several representations, but of no avail. Hence, this writ petition, with the prayers as stated above.

The main contention of the petitioner is that though he was having a diploma in Electrical, but since he was initially appointed as Junior Engineer (mechanical) through order Annex. 1, therefore, his name should have been shown in the list of Junior Engineers (Mechanical) and not in the list of Junior Engineers (Electrical) and he should have been given promotion as Assistant Engineer (Mechanical).

A reply to the writ petition was filed by the respondents and the main contention of the respondents is that there are separate qualifications for promotion to the post of Assistant Engineer (Mechanical) and Assistant Engineer (Electrical) and since the petitioner was not having requisite qualification for promotion to the post of Assistant Engineer (Mechanical), therefore, he was not given promotion to the post of Assistant Engineer (Mechanical) as he was not possessing diploma in Mechanical and therefore, in these circumstances, if separate lists of Junior Engineers holding diploma in Mechanical and Junior Engineers holding the diploma in Electrical have been made by the respondents, no illegality or irregularity has been committed by them in doing so. Hence, the writ petition filed by the petitioner be dismissed.

3. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and gone through the materials available on record.

4. There is no dispute on the point that the petitioner is possessing the diploma in Electrical and not in Mechanical.

5. In the Rules of 1954, the qualifications (for promotion to the post of Assistant Engineer (Mechanical) have been prescribed and as per Schedule appended to the Rules of 1954, the requisite qualification for promotion to the post of Assistant Engineer (Mechanical) is that a person concerned must have a degree in Mechanical Engineering or diploma in Mechanical Engineering.

6. In view of the above, for promotion to the post of Assistant Engineer (Mechanical), the petitioner was not having requisite qualification as he was possessing diploma in Electrical and not in Mechanical and, therefore, in these circumstances, his case that though he was having a diploma in Electrical, he should have been given promotion as Assistant Engineer (Mechanical) cannot be accepted. The mere fact that initially he was appointed as Junior Engineer (Mechanical) would not make him eligible for promotion to the post of Assistant Engineer (Mechanical) as he was not having requisite qualification for promotion to the post of Asstt. Engineer (Mechanical).

7. When this being the position, the case of the petitioner cannot be accepted and by making separate lists of Junior Engineers (Electrical) and Junior Engineers (Mechanical) for promotion to the posts of Assistant Engineers concerned, the

respondents have not violated any rules or regulations and if they have done so, no legal right has accrued in favour of the petitioner.

8. For the reasons stated above, there is no merit in this writ petition and the same is liable to be dismissed.

Accordingly, this writ petition filed by the petitioner is dismissed. No order as to costs.