
(2015) 02 RAJ CK 0269
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2467 of 1999

Manoj Parashar

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 05-02-2015

Acts Referred:

Citation : (2015) LabIC 3429

Hon'ble Judges : Sunil Ambwani, A.C.J;Prakash Gupta, J

Bench : Division Bench

Advocate : Mukesh Agarwal, for the Appellant

Final Decision : Dismissed

Judgement

Sunil Ambwani, Acting C.J—We have heard learned counsel appearing for the petitioner. The petitioner was appointed as Assistant Conservator of Forest by the Government of Rajasthan on 21.06.1986. He was promoted in due course, and is now serving in the cadre of Indian Forest Service. This writ petition was filed by the petitioner in the year 1999, challenging the Notification dated 18.07.1986, amending Rule 6(ii) of the Rajasthan Forest Service Rules, 1962, by which the ratio of recruitment between the direct recruits and the promotees was changed as 1:1 instead of 3:1, for forestry wing. The Rule, published on July 18, 1986, was made effective with effect from 01.04.1985. It is submitted that the change of ratio retrospectively between the direct recruits and promotees is illegal and arbitrary, as it has affected the petitioner's seniority.

2. In the reply, filed by the State-respondents, a preliminary objection has been taken regarding delay in filing the writ petition. In paragraph 7, it is stated that the Rules were notified on 18.07.1986, effecting the ratio with effect from 01.04.1985. After amendment of the Rules, final seniority lists were drawn on 24.12.1994, 13.12.1997 and 11.11.1998. The petitioner neither challenged the Rules, nor the seniority lists, and thus, the writ petition is liable to be dismissed on the ground of delay. It is also stated in the reply that the petitioner has not

impleaded the persons, who are likely to be affected, if the Rules are declared ultra vires, nor even a single person has been impleaded, which may be affected by the reliefs granted in this writ petition.

3. It is submitted that in D.B. Civil Writ Petition No. 703/1996 - Bhera Ram v. The State of Rajasthan & Ors. & other connected writ petitions, decided on 29.03.2013, a Division Bench of this Court did not accept the claim of the petitioners in that writ petitions, to have their seniority from the date of their selection i.e. 29.04.1981.

4. We find that though the writ petition was filed in the year 1999 the petitioner had challenged the Rules notified on 18.07.1986, after a period of 13 years, in between which the seniority list was finalized on three occasions.

5. We further uphold the objection that without impleading the persons, who are likely to be affected if the Rules are declared ultra vires, the relief claimed by the petitioner cannot be granted. We also find that the seniority list, in pursuance to the directions issued by this Court in Bhera Ram v. The State of Rajasthan & Ors. (supra), has not been drawn so far. The writ petition is accordingly dismissed, with liberty to the petitioner to file a fresh writ petition, in case his seniority is affected by the fresh seniority list, in pursuance to the judgment of this Court in Bhera Ram v. The State of Rajasthan & Ors. (supra).