
(2000) 11 RAJ CK 0005
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2288 of 1995

Mathura Das and others	Vs	APPELLANT
Union of India and others		RESPONDENT

Date of Decision : 27-11-2000

Acts Referred:

Constitution of India, 1950 — Article 14
Rajasthan Subordinate Offices Ministerial Staff Service Rules, 1957 — Rule 7(3)

Citation : (2001) 2 RLW 1068 : (2001) 4 WLC 603 : (2001) 3 WLN 273

Hon'ble Judges : B.S. Chauhan, J

Bench : Single Bench

Advocate : R.S. Saluja, for the Appellant; P.R. Singh, for the Respondent

Judgement

Chauhan, J.—The instant writ petition has been filed for seeking directions to the respondents to provide promotional opportunities alleging that there is complete stagnation in the cadre of Laboratory Boys.

(2). The facts and circumstances giving rise to this case are that petitioners are working as the Laboratory Boys and their services are governed by the Rajasthan Subordinate Offices Ministerial Staff Rules, 1957 (for short, "the Rules, 1957") and Rajasthan Educational Subordinate Services Rules, 1971 (for short, "the Rules, 1971"). Petitioners' grievance is that inspite of working for a long time, they could not to promoted as there is complete stagnation in their cadre hence the Court should issue directions for providing promotional avenues. The respondents have contended that under Sub-rule (3) of rule 7 of the Rules, 1957, there is a promotional quota to the extent of 15% in the cadre of Lower Division Clerks and as the petitioners want their promotion to the rank of Laboratory Assistant, it is to be filled up under separate Rules and there is a specific qualification required for that post, i.e. Secondary (Science) with certain optional subjects and the petitioners do not possess the said qualification. Moreso, to remove the stagnation, the Government has introduced the policy, vide order dated 21.5.92, providing For selection grades after completion of 9,

18 and 27 years service and if any person had been given promotion wrongly, as quoted by the petitioners, that does not confer any benefit on the petitioners being illegal. Hence, the petition is liable to be rejected.

(3). I have considered the rival submissions made by the learned counsel for the parties.

(4). Petitioners have quoted certain instances where persons similarly situated had been promoted. As it is settled legal proposition that Article 14 of the Constitution is not meant to perpetuate the illegality, the contention that petitioners must be given similar benefit, is untenable. (Vide *Sneh Prabha (Smt.) & Ors. vs. State of U.P. & Anr.* (1), *State of Haryana & Ors. vs. Ram Kumar Mann* (2), *M/s. Faridabad CI, Scan Centre vs. D.G. Health Services & Ors.* (3), and *Jalandhar Improvement Trust vs. Sampuran Singh* (4).

(5). Promotion cannot be claimed as a matter of right, nor it is a condition of service. However, an eligible person has a right to be considered for promotion strictly in accordance with law. In *Raghunath Frasad Singh vs. Secretary, Home (Police Department), Government of Bihar & Ors.* (5), the Hon"ble Supreme Court stressed upon the need for providing promotional avenue by observing that promotion "generates efficiency in service and fosters the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly."

(6). In *Council of Scientific & Industrial Research & Anr. vs. K.G.S. Bhatt & Anr.* (6), the Hon"ble Supreme Court placed reliance on various writings of known authors and observed that every management must provide real opportunities for promoting employees to move upward. The organisation that fails to develop a satisfactory procedure for promotion is bound to pay a severe penalty in terms of administrative cause, mis-allocation of personnel, low moral and ineffectual performance among both non- managerial employees and their supervisors. There cannot be any modern management much less in career planning manpower development, management development etc. which is not related to a system of promotions.

(7). In *Dr. Ms. O.Z. Hussain vs. Union of India & Ors.* (7), the Hon"ble Supreme Court again stressed upon the need of providing promotional avenues to increase efficiency in public service as the stagnation reduces efficiency and makes the service ineffective.

(8). Thus, there can be no quarrel to the settled legal proposition that there, must be promotional avenues and unless there is some incentive for the employees and they suffer from stagnation, it would not only demoralise them but the administration will also be suffering from inefficiency of the employees.

(9). In *Uttarakhand Mahila Kalyan Parishad & Ors. vs. State of U.P. & Ors.* (8), there had been rules discriminating the promotional avenues on the ground of

sex and the Jady teachers and employees in the Education Department doing administrative business were not given the same opportunities for promotion which the male employees had been given. The Hon''ble Supreme Court deprecated the practice and passed appropriate order to provide the similar opportunities for promotion again emphasising the need of providing for promotional avenues.

(10). In T.R. Kothandaraman & Ors. vs. Tamil Nadu Water Supply and Drainage Board & Ors. (9). the Hon''ble Supreme Court again considered the issue in detail and taking into account the importance of educational qualification, came to the conclusion that higher educational qualification can be the basis not only for barring promotion but also for restricting the scope of promotion. However, the Court further held that restriction so placed should not, however, go to the extent of seriously jeopardising the chances of promotion and to decide this, the extent of restriction shall have also to be looked into to ascertain whether it is reasonable.

(11). If the instant case is examined in the light of the aforesaid legal propositions, it cannot be disputed that the Rules. 1971 specifically provides for 15% reservation in promotional posts to the persons belonging to the petitioners cadre. Secondly, they cannot be promoted as Laboratory Assistant, which provides for higher educational qualification which petitioners do not possess and that cannot be a ground for interference. Thirdly, as rightly pointed out by the respondents, the State Government, vide order dated 25.1.92, provided for selection grades after completing 9, 18 and 27 years service and it cannot be held to be a case of complete stagnation or not providing for reasonable promotional avenues.

(12). In view of the above, I find no force in the petition and it is accordingly dismissed. No order as to costs.