
(2003) 08 RAJ CK 0043
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6363 of 1997

M.P. Gandhi

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 27-08-2003

Acts Referred:

Citation : (2004) 2 RLW 1165 : (2003) 4 WLC 724

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Advocate : R.C. Joshi, for the Appellant; I.J. Singh, Mahesh Ved and Sadhana Bhatt, for the Respondent

Final Decision : Allowed

Judgement

Ashok Parihar, J.—The petitioner while working as Assistant Director, Agriculture was compulsorily retired from service vide order dated 16.08.1991. The above order came to be challenged by the petitioner by way of filing an appeal before the Rajasthan Civil Services Appellate Tribunal. While allowing the appeal, the Tribunal, vide order dated 28.07.1994 set aside the order of compulsory retirement. The respondents submitted a writ petition before this Court challenging the above order of the Tribunal, however, the writ petition was dismissed by this Court vide order dated 27.01.1995. A further SLP was also dismissed by the Supreme Court vide order dated 17.07.1995. The petitioner could not be reinstated in service since he had already reached the age of superannuation on 31.01.1995. In the meanwhile, as per the recommendations of the Departmental Promotion Committee (DPC), the result of which was kept in sealed cover, the petitioner was also promoted to the post of Deputy Director, Agriculture. Consequent to the order of the Tribunal been affirmed upto the Supreme Court, the petitioner was entitled for all consequential benefits including the back wages, pay fixation and also the retirement benefits. Since complete payment has not been made, the petitioner had to approach this Court by way of filing the present writ petition.

2. In reply, it has been submitted that though arrears of back wages and other retirement benefits have been paid to the petitioner, however, the benefit of promotion to the post of Deputy Director could not be given in view of some objections raised by the concerned Treasury Officer. It has been submitted that the objections have been raised to the extent that the petitioner will be entitled for only notional benefits and not the actual arrears.

3. In my opinion, the objection raised by the concerned Treasury Officer is wholly unjustified and unsustainable and it appears to have been raised only for the purpose of raising some objection as usual by such officers. Since the order of compulsory retirement had been set aside by the Tribunal and the same been upheld upto the Supreme Court and there been no direction of any court denying the actual benefit of pay, pay fixation, promotion etc., the benefit as accrued to the petitioner after order of compulsory retirement been quashed and set aside, could not have been denied on such flimsy ground.

4. Accordingly, the writ petition is allowed. The respondents are directed to make the entire payment of arrears in regard to promotion post to the petitioner after proper fixation of pay and further revise the pension, Gratuity and other retiral benefits accordingly. The entire arrears as ordered above be paid within sixty days from the date of receipt of certified copy of this order. The petitioner will also be entitled for interest at the rate of 10% p.a. on the above arrears w.e.f. 01.02.1995. The respondents are further directed to pay a cost of Rs. 20,000/- to the petitioner alongwith the arrears as ordered above.