
(1991) 09 RAJ CK 0006

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4243 of 1989

Om Prakash Saini

APPELLANT

Vs

The State of Raj. and Another

RESPONDENT

Date of Decision : 12-09-1991

Acts Referred:

Rajasthan (Recruitment of Dependents of the Government Servant Dying While in Service) Rules, 1975 — Rule 15

Citation : (1991) 2 RLW 223 : (1991) 2 WLN 446

Hon'ble Judges : I.S. Israni, J

Bench : Single Bench

Final Decision : Allowed

Judgement

I.S. Israni, J.—In this petition it has been prayed that respondent may be given direction to appoint the petitioner in the Grade of LDC from the date when the said post was found vacant along with consequential benefits.

2. Briefly stated, it is submitted by Shri Dinesh Sharma learned Counsel for the petitioner that the petitioner is the son of (late) Shri L.L. Saini who expired in the month of January, 1981 while he was in service as Cleaner in the office of respondent No. 2. Since there was no other earning member in the family, the petitioner applied under the Rajasthan (Recruitment of Dependents of Government Servants Dying While in Service) Rules, 1975 (for short "the Rules 1975") for giving appointment to him. The petitioner was asked to join on the post of Cleaner and was given a clear assurance that whenever a post of Clerk will be available, he will be appointed on the same. At the time of appointment he had passed Matriculation Examination and that subsequently passed Intermediate Examination. Vide Annexure-I dated 9-1-1984 a letter was received by the petitioner from Deputy Director, Agriculture Department that the petitioner will be appointed as LDC and the matter is under consideration. Vide Annexure-2 dated 25-1-1984 again he was informed to the same effect. It is submitted that it is evident from Annexure-3 that persons Junior to the petitioner

in service have been appointed as Clerks whenever a vacancy arose. But the petitioner has been ignored. Therefore, the petitioner again gave representations vide Annexure-4 to Annexure-9 from time to time. Thereafter, a notice for demand of justice Annexure-10 was also served upon the respondents but with no effect.

3. It is submitted by Shri B.K. Sharma Addl. Government Advocate that the petitioner himself vide Annexure R/1 dated 28-1-1981 prayed that he may be appointed on the post of Class IV servant. It is also submitted that he was only Matriculate and was not qualified to be appointed as LDC since he did not know typing. It is also submitted that once he was appointed as Class IV servant in the year 1981, now no further appointment on the post of LDC can be given to him under Rules 1975.

4. I have heard both the parties and gone through the documents on record. Even though the applicant in the first instance applied to be appointed as Class IV, since he was a Matriculate and qualified to be appointed as LDC, it was expected from the authorities to give him such appointment for which he was qualified. It is not necessary that since the deceased father of the petitioner was a Class IV servant, therefore, his son should also be appointed as Class IV servant even though he may have better qualification. Merely because once an appointment is given to a person under Rules 1975, there is no prohibition under the said rules that he cannot be given better appointment keeping in view of his qualification. Even the respondents themselves vide Annexures-1 and 2 have expressed that the matter regarding appointment of the petitioner as LDC is under consideration. Thereafter vide Annexure-15 dated 31-10-1983, a letter was issued by Deputy Director Agriculture Department, inquiring from Joint Director to explain in what circumstances the appointment of LDC was not given to him the first instance. Therefore, it can be said that even the respondents themselves felt that the petitioner was qualified to get the appointment on the post of LDC. It is also evident from Annexures-12, 13 & 14 that the petitioner has been assigned work as LDC.

5. It may be pointed out that under the provisions of Section 15 of the Rules 1975, it was obligatory for respondents to give appointment to the petitioner on a suitable post if there was a vacancy, provided it is not within the purview of RPSC.

6. It is, therefore, directed that the petitioner be appointed on the post of LDC for which he was qualified at the time he made application within a period of 3 months from the date of producing certified copy of this order before the concerned authorities.

7. It is further directed that, even though it is given out by the learned Counsel for the petitioner that he knows typing also, however, 1 year time is allowed to the petitioner to learn typing of standard required for appointment as LDC. The Petition is allowed.