

(2016) 04 RAJ CK 0069

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No.1030 of 2015

Pukhraj Joshi

APPELLANT

Vs

State of Rajasthan & Another

RESPONDENT

Date of Decision : 11-04-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 2 RLW 1393

Hon'ble Judges : Mr. Govind Mathur and Mr. Ganga Ram Moolchandani, JJ.

Bench : Division Bench

Advocate : Mr. Mahaveer Bishnoi, Advocate, for the Appellant; Mr. S.S. Ladrecha, Additional Advocate General, with Mr. Vikas Choudhary, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Mathur, J.—By the order dated 29.10.2015, learned Single Bench dismissed the writ petition preferred by the appellant petitioner on the count of delay.

2. The submission of learned counsel for the appellant is that the subject-matter of the writ petition was the recommendations of the Departmental Promotion Committee that met in the year 1997, but the right claimed is based upon a circular dated 11.09.2011, which was made applicable with effect from 01.04.1997. It is submitted that the respondents were required to review the earlier recommendations made by the Departmental Promotion Committee in accordance with the amendment introduced in the Rajasthan Public Service Commission (Ministerial and Subordinate) Service Rules and Regulations, 1999.

3. Learned counsel appearing on behalf of the State submits that the Departmental Promotion Committee made recommendations in the year 1997 and those were reviewed in the same year, therefore, it was not open for the appellant petitioner to question correctness of the same at a belated stage.

However, it is not in dispute that whatever relief claimed by the appellant-petitioner is based upon the amendment introduced in the Rules of 1999 vide notification dated 11.09.2011.

4. We have examined facts of the case. It is the position admitted that though the recommendations of the Departmental Promotion Committee, which met in the year 1997, were questioned, but that is on the basis of an amendment introduced in the Rules of 1999 with effect from 01.04.1997. Whatever right accrued to the appellant petitioner, that is on the basis of the notification aforesaid, which was applied with retrospective effect. In view of it, we are of the considered opinion that the writ petition in no manner suffers from any delay or latches on part of the appellant-petitioner. Learned Single Bench, thus, erred in dismissing the writ petition on the count of delay.

5. In view of whatever discussed above, the appeal deserves acceptance. Accordingly, the same is allowed. The order impugned dated 29.10.2015 is set aside. The writ petition is remanded to learned Single Bench for its adjudication on merits. No order as to costs.