
(2001) 12 RAJ CK 0044
In the Rajasthan High Court
Case No : Special Appeal No. 215 of 1998

Radhey Shyam Bohra

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 14-12-2001

Acts Referred:

Citation : (2003) 1 RLW 559 : (2002) 2 WLC 9 : (2002) 5 WLN 483

Hon'ble Judges : P.P. Naolekar, J;D.N. Joshi, J

Bench : Division Bench

Advocate : H.K. Purohit, R.L. Jangid, A.A.G, for the Appellant;

Final Decision : Allowed

Judgement

Naolekar, J.—The petitioner was employed in the Medical Department and was appointed as Sanitary Inspector by order dated 18.9.1957. He was promoted on the post of non-medical Supervisor by order dated 28.10.1978. The petitioner was given selection scale under the Circular dated 25.1.1992 (Annex. 1) issued by the Government on account of the fact that he was not given promotion in spite of the service of 18 years in the Department. After grant of the selection scale, the petitioner was fixed in the pay scale of Rs. 1640-2900. As the petitioner was not given the third selection scale on completion of 27 years of service, he has approached this Court by filing the writ petition. The petitioners writ petition was dismissed by the learned Single Judge by his order dated 25.11.1997 on the ground that the petitioner is entitled to maximum pay scale of Rs. 1690- 2900, which he is already getting, because there is no higher post available for the petitioner unless, he has been selected for the State services and as the higher pay scale is not available to the petitioner, he shall not be entitled to third selection scale.

2. With utmost respect to the learned Single Judge, we find ourselves unable to accept the view taken by him. The Circular dated 25.1.1992 of the Government exactly taken into consideration the situation which has arisen in this case.

Clause 5 of the Circular dated 25.1.1992 reads as under:-

"5. In case there is no post for first, second or third promotion, as the case may be, in the same service/cadre of the employee does not possess academic qualifications prescribed for promotion and in respect of the isolated posts, the Selection Grades shall be as specified below:-

S. No.

Existing pay-scale

Selection Grade

1.

750-940

(1)

775-1025

(2)

2.

775-1025

(2)

800-1250

(3)

3.

800-1250

(3)

825-1350

(4)

4.

825-1430

(4)

950-1680

(6)

5.

940-1520

(5)

975-1720

(7)

6.

950-1680

(6)

1200-2050

(9)

7.

975-1720

(7)

1200-2050

(9)

8.

1025-1800

(8)

1400-2300

(10)

9.

1200-2050

(9)

1400-2600

(12)

10.

1400-2050

(10)

(i) in those cases where

11.

1400-2360

(11)

next promotion post is

12.

1400-2600 .

(12)

in a State Service. 2000-3200

(14)

(ii) in other cases-

1640-2900

(13)

13.

1640-2900

(13)

2000-2900

(14)

14.

2000 -3200

(14)

2000-3500

(15)

15.

2000-3500

(15)

2200-4000

(16)

Note : If an incumbent of the isolated post or a person not possessing academic qualifications prescribed for promotion has been granted Selection Grade before issue of this order and such Selection Grade is higher than that indicated in this paragraph, he will continue to draw pay in such Selection grade as personal to him but the second or third Selection Grades shall be determined with reference to the first or second Selection Grade which would have been admissible in terms of this paragraph."

3. Under Clause 5, it has been mentioned that in case there is no post for first, second or third promotion, as the case may be, in the same service or cadre, or

the employee does not possess academic qualification prescribed for promotion or in respect of the isolated posts, the Selection Grades shall be as provided under the Schedule. Here, the case of the State is that there is no promotion post available from the post of non-medical Supervisor, and, therefore, petitioner is not entitled for the third Selection Grade. But, under Clause 5 of the Circular dated 25.1.1992 if there is no promotional post available, then the employee is entitled to the pay scale as provided under the Schedule. The petitioner admittedly is in the pay scale of Rs. 1640-2900, therefore, under Clause 5, his promotion pay scale shall be deemed to be Rs. 2000-3200. There is no promotional post available from the post, which the petitioner is presently holding and he also presently does not hold the qualification to be selected for the State services. In both the eventualities, the petitioner has a right to get the third Selection Scale as provided under the Schedule on completion of 27 years of satisfactory service. The petitioner has been wrongly denied this Selection Scale.

4. In view of the above discussion, the order dated 25.11.1997 passed by the learned Single Judge is set aside. The writ petition is accordingly allowed. The petitioner shall be granted Selection Scale of Rs. 2000-3200 on completion of 27 years of service. The order in this regard shall be passed within one month from the placement of this order of the Court before the appropriate authority. In the circumstances of the case, there shall be no orders as to costs.