
(2014) 07 RAJ CK 0153
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1372/1998

Raghunath Singh

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 03-07-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 07 RAJ CK 0153

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Prathistha Dave, Addl. Govt. Counsel, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Dr. Vineet Kothari, J.—None appears on behalf of petitioner, though names of Mr. V.M. Joshi and Mr. Kailash Trivedi, are shown in the cause list. Heard learned counsel for the respondents.

2. The present writ petition has been filed by the petitioner with the following prayers by the petitioner, who was working as Tehsildar in Merta City and born on 02.09.1951 and by now he has achieved the age of superannuation.

3. Dr. Prathistha Dave, learned counsel for the respondents fairly submits that the controversy involved in the present writ petition is covered by the decision of Division Bench of this Court in the case of Mool Chand Verma Vs. State of Rajasthan & Ors. reported in 1995 (1) RLW (Raj.) 425 and, therefore, the case of the present petitioner was required to be considered in accordance with law in terms of said judgment.

4. The relevant extract of the judgment of Division Bench of this Court in the case of Mool Chand Verma (supra) is quoted herein below for ready reference:-

3. All the petitioners had completed 45 years of age and hence moved representation(s) for being granted exemption from appearing at the

departmental examination which was to be held in accordance with Rule 14(d) of the Rajasthan Tehsildars Service (Departmental Examination) Rules, 1960 (for short, "the Tehsildars Departmental Examination Rules"). The representations were rejected and hence the petitioners have filed this writ petition under Article 226 of the Constitution of India.

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12. In Bastiram Mangal's case (supra), relevant Rule was couched in the following terms:-

18 (1) Govt. employees who have attained the age of 45 years on or before 1st January, 1982, are exempted from appearing at the departmental examination.

In that case, *ibid*, writ petitioner challenged cut-off date and contended that there was no purpose in fixing such a cut-off date in respect of such employees who had attained the age of 45 years. All the employees, who had attained 45 years of age formed one class and no distinction could be made between those who had attained the age of 45 years on or before 01.01.1982 and those who had attained the age of 45 years after the said date. After discussing the case-law on the point it was held that fixing of cut-off date was arbitrary and did not serve any rational purpose and hence, fixing of cut-off date was declared as ultra-vires.

13. In our opinion, the ratio of Bastiram Mangal's case (supra) squarely applies to the facts of the present case and in our opinion, cut-off date inserted in Rule 14 (d) of the Tehsildars Departmental Examination Rules is arbitrary, illegal and ultra vires as it creates two artificial classes. We accordingly strike out the words, "on or before 1st January, 1982" from Rule 14 (d) of the aforesaid Rules as being unconstitutional. After offending portion is struck off and deleted, relevant Rule would read as under:-

14 (d) Government employees who have attained the age of 45 years are exempted from appearing at the Departmental Examination.

14. No other point was urged before us.

15. Consequently, we partly allow this writ petition and direct the respondents to confirm the petitioners on the posts of Tehsildar without undergoing a departmental examination subject of course to suitability for confirmation on other relevant considerations. Other reliefs claimed in the writ petitioner cannot be granted and are refused. In the circumstances of the case, we make no order as to costs.

5. In view of above submissions made by the learned counsel for the respondents, the present writ petition is disposed of in the same terms. If any benefit accrues to the petitioner in pursuance of the aforesaid judgment of the Division Bench in the case of Mool Chand Verma (supra), and the present order

in the present case following that judgment, the respondents shall consider the case of the petitioner in accordance with law and pass appropriate orders.

6. The writ petition is, accordingly, disposed of. No costs. A copy of this order be sent to the concerned parties forthwith.