
(2005) 07 RAJ CK 0007

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3532 of 2005

Rajasthan State Road Transport Corporation and Another

APPELLANT

Vs

Charan Singh and Another

RESPONDENT

Date of Decision : 07-07-2005

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2005) 4 RLW 2293 : (2005) 4 WLC 98

Hon'ble Judges : R.P. Vyas, J

Bench : Single Bench

Advocate : Sangeet Lodha, for the Appellant;

Final Decision : Dismissed

Judgement

R.P. Vyas, J.—Heard at admission stage.

2. The present writ petition under Article 226/227 of the constitution of India has been filed by the petitioner with a prayer that the impugned award dtd. 29.6.2001 (Annex.5) may kindly be quashed and set aside.

3. Briefly stated the facts of the case as stated by the petitioner are that the respondent No. 1 was initially appointed as conductor vide order dtd. 30.6.1969. Vide order dtd. 13.1.1997, it was provided that the conductors/booking clerk who had completed 15 years of service and whose service record was satisfactory will be granted selection grade. In pursuance of aforesaid order, 129 conductors/booking clerks were accorded selection grade w.e.f. 1.1.1985 and 29 conductors were accorded selection grade w.e.f. 11.1.1986. It was also alleged in the petition that vide order dtd. 16.9.1988, 87 conductors/booking clerks were promoted on the post of Assistant Traffic Inspector who were junior to the respondent-workman. However, the respondent workman was not accorded promotion after due consideration on account of adverse record as the respondent - workman was punished in departmental enquiry vide order dtd. 19.12.1983 and an enquiry was also pending against him. The respondent-

workman and some other booking clerks/conductors preferred an appeal before the Chairman of the Corporation who in its turn ordered for review DPC wherein the respondent - workman was found fit for promotion on the post of Assistant Traffic Inspector and accordingly, he was promoted to the post of Assistant Traffic Inspector vide order dtd. 9.1.1989.

4. The respondent-workman being aggrieved by the promotion accorded to him w.e.f. 9.1.1989 raised an industrial dispute stating that he should have been promoted w.e.f. 16.9.1988, the date on which the persons junior to him holding the post of Booking Clerk/Conductors were promoted, on post of Assistant Traffic Inspector.

5. The learned Tribunal, after hearing both the parties allowed the claim petition filed by the respondent workman by award dtd 29.6.2001 (Annex.5) holding that promotion to the respondent- workman was denied for the reason that vide dtd. 19.12.1983, a penalty of withholding of one grade increment was imposed on the workman and an enquiry was also pending against him, but once the appeal of the respondent-workman was allowed by the Chairman and the review DPC was held in which the respondent-workman was found eligible for promotion, then question of granting him promotion from a later date does not arise and he ought to have been promoted w.e.f. 16.9.1988 instead of 9.1.1989.

6. The main contention of the learned Counsel for the petitioner is that in the DPC, the respondent-workman was not found fit for promotion on the post of Assistant Traffic Inspector and thereafter he preferred an appeal before the Chairman and Review DPC was held on 17.12.1988 and the respondent-workman was promoted w.e.f. 09.01.1989.

7. In my considered opinion, the findings recorded by the learned Labour Court are based on correct appreciation of facts and law. Admittedly, the DPC was held and vide order dtd. 16.9.1988, 87 conductors/booking clerks, who were junior to the. respondent-workman, were promoted to the post of Assistant Traffic Inspector. Thereafter, the Chairman, RSRTC ordered review DPC, it means the promotion accorded by the review DPC will relate to the same period, for which earlier promotions were made. The earlier promotions, were made vide order dtd. 16.9.1988, therefore, the persons promoted vide the review DPC will also be promoted w.e.f. 16.9.1988 instead of 9.1.1989.

8. That apart, under Article 227 of the Constitution of India, the High Court cannot interfere with the exercise of a discretionary power vested in the inferior Court or Tribunal, unless its finding or order is clearly perverse or patently unreasonable.

9. It may be stated that High Court's power under Article 226/227 of the Constitution of India should be exercised only when there is dereliction of duty and flagrant violation of law and should be exercised most sparingly in a case where grave injustice would be done unless the court interferes. It cannot be used as appellate or revisional forum.

10. In the present case, as already stated above, the findings of facts of the Labour Court just quoted above are based on correct appreciation of evidence and material available on record and they do not suffer from any illegality. There is no error of law apparent on the face of the record and it cannot be said that the findings of the Labour Court are perverse or based on no- material.

11. Thus, the impugned award dtd. 29.6.2001 (Annex. 5) passed by a the learned Labour Court cannot be said to have been suffered from the basic infirmity and illegality and the same does not require any interference by this Court under Article 226/227 of the Constitution of India and this writ petition deserves to be dismissed.

12. For the reasons mentioned above, the present writ petition has not force and the same is hereby dismissed.

13. No order as to costs.