
(2010) 05 RAJ CK 0058
In the Rajasthan High Court

Rakesh Bhandari and Others

APPELLANT

Vs

State of Raj. and Others

RESPONDENT

Date of Decision : 04-05-2010

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2010) 05 RAJ CK 0058

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Judgement

Vineet Kothari, J.—By this writ petition the petitioners, who are working as Foreman Gr.II in the Mining Department of the respondent State have approached this Court for the following reliefs:

(i) The respondents may be directed to provide similarity in pay scales of mines foreman Gr.II/Surveyor qua the junior engineer after completion of 9, 18 and 27 years of service on the principle of equal pay for equal work.

(ii) The respondents may be directed to provide channel of promotion for the post of mines foreman/Surveyor to the post of Assistant Mining Engineer as it is being done in the case of Junior Engineer to the post of Assistant Engineer in other departments of the State of Rajasthan.

(iii) to delink the posts of Senior Field Assistant and Prospecting Supervisors from the post of mines foreman Gr.II/Surveyor for the purpose of promotion to the post of Mines Foreman Gr.I and provide provide separate channel of promotion for Senior Field Assistant and Prospecting Supervisors.

(iv) prescription of 50% quota by direct recruitment on the post of mines foreman Gr.Ist may be declared null and void and ultra vires to the mandate of Article 14 of the Constitution of India.

(v) designation of mines foreman and surveyor as mines foreman Gr.Ist and IInd and Senior Surveyor may be declared ultra vires to the mandate of Article 14 of

the Constitution of India and respondents may be directed to provide channel of promotion from mines foreman and surveyor to the post of Assistant Mining Engineer.

(vi) any other appropriate order which this Hon''ble Court deem fit in the facts and circumstances of the case may kindly be passed.

(vii) cost of the writ petition may be awarded to the petitioners.

2. Learned Counsel for the petitioners, Mr. P.P. Choudhary urged that by providing the channel of promotion to the post of Mines Foreman Gr.Ist to the extent of 50% by way of direct recruitment and 50% by way of promotion to be shared by four feeder cadres of Mines Foreman Gr.II, Surveyor, Senior Field Assistant and Prospecting Supervisor as per the provisions of Rajasthan Mines and Geology Subordinate Service Rules, 1960, a bottleneck will be created for the cadre of Foreman Gr.Ist, to which the petitioners belong as their promotional avenues would be restricted.

3. Learned Counsel for the respondent Mr. R.K. Soni submits that the Rules of 1960 has since been amended during the pendency of the writ petition by Notification dated 29/9/2008 and promotion to the post of Mines Foreman Gr.I are now to be made 100% by way of promotion out of which 20% shall be reserved for the Holder of Degree in Mining Engineering or equivalent qualification. A copy of this Notification dated 29/9/2008 has been placed on record.

4. In view of this subsequent development by way of amendment in the Rules, learned Counsel for the petitioners does not press this writ petition at this stage on merits but seeks liberty of the Court that if the petitioners are aggrieved of any position resulting from amendment in the Rules w.e.f. 29/9/2008, they may be permitted to approach this Court by way of fresh writ petition.

5. Accordingly, without giving any finding on merits of the writ petition, this writ petition is disposed of as not pressed with liberty to the petitioners to approach this Court again in case despite amendment in the Rules they feel aggrieved.