
(2011) 01 RAJ CK 0092
In the Rajasthan High Court
Case No : Civil Writ Petition No. 12958 of 2009

Ram Kishan

APPELLANT

Vs

Jaipur Vidyut Vitran Nigam Limited and Others

RESPONDENT

Date of Decision : 11-01-2011

Acts Referred:

Employees Service Regulations, 1964 — Regulation 29
Penal Code, 1860 (IPC) — Section 134, 302, 304

Citation : (2011) 01 RAJ CK 0092

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mohammad Rafiq, J.—Petitioner has filed this writ petition with prayer that Respondents be directed to grant him annual grade increments with effect from 1993 and to make pay fixation accordingly. Respondents be further directed to grant him benefit of selection scales on completion of 9, 18 and 217 years of service with all consequential benefits with interest at rate of 18% per annum.

2. Contention of learned Counsel for Petitioner is that Petitioner was placed under suspension on 18.12.1985 but thereafter reinstated on 26.01.1986. He continued in service of Respondents till he retired on 31.10.2009. While Respondents continued to pay to Petitioner benefit of annual grade increments till 1986 but thereafter for period of 13 years such benefit was not granted. Petitioner has also not been paid benefit of selection scales on completion of 9, 18 and 27 years of service. It is therefore prayed that writ petition be allowed.

3. Learned Counsel appearing on behalf of Respondents opposed writ petition and submitted that Petitioner was arrested in a criminal case for offence under Sections 302 and 134 IPC for which he was arrested and was granted bail on 25.01.1986. Petitioner was granted benefit of annual grade increments up to October, 1993. Thereafter, on number of occasions, documents about his conviction in criminal case were demanded by Respondents but Petitioner did not

produce the same. In such circumstances, despite several requests made on behalf of Petitioner, decision to grant him annual grade increments could not be taken on account of non-supply of such documents by Petitioner himself. Not a single document with regard to criminal case registered against him has been provided by Petitioner to Respondents. So long as order of conviction stands, he cannot be granted any benefit.

4. Per contra, learned Counsel for Petitioner referred to letter of Assistant Engineer, Jaipur Vidyut Vitran Nigam Limited, Malpura dated 02.06.2009 addressed to Executive Engineer (O & M), Jaipur Vidyut Vitran Nigam Limited, Tonk and argued that in that letter, complete particulars of Petitioner's case were given. Even it is submitted that as per Regulation 29 of Employees Service Regulation, 1964 increments could be withheld only in accordance with relevant provisions of Classification, Control and Appeal Rules. Otherwise increments are permissible as a matter of course but Respondents have not passed any specific order in this regard. Although Petitioner was convicted for offence u/s 304 Part II of IPC vide judgment dated 17.03.1987, but appeal filed by him against aforesaid conviction is pending for decision in this Court in which sentence awarded to Petitioner was suspended till pendency of appeal. Respondent despite conviction of Petitioner continued him in service and therefore they cannot be now allowed to contend that Petitioner would not be paid benefit of pay or increments.

5. On perusal of material on record and also pleadings of parties, I do not find that Petitioner ever conveyed to Respondents factum of his conviction. Although it is shown that on filing of criminal case against the Petitioner he was placed under suspension but his suspension was revoked after he was granted bail. Respondents in reply to writ petition have stated at different places that despite being required repeatedly, Petitioner did not produce any of those documents but now Petitioner does not deny fact of his conviction and therefore action of Respondent for not paying him benefit of annual grade increments or for that matter selection scale would not be wholly unjustified. Although it is another matter that when Petitioner is acquitted of charge in appeal, he may have right to receive those benefits and he in that event may approach Respondents for revisiting their earlier decision.

6. This petition is therefore dismissed, however with observations aforesaid.