
(2009) 10 RAJ CK 0020
In the Rajasthan High Court

Ramesh Chandra Sharma

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 21-10-2009

Acts Referred:

Rajasthan Subordinate Offices Ministerial Staff Service Rules, 1957 — Rule 25(10), 25(7), 27

Citation : (2010) 1 WLN 85

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Govind Mathur, J.—The petitioner entered in the services of the respondents being appointed as Nidhi Lipik on 13.02.1981 and permanent status was given to him on 23.12.1981. The Commissioner, Devasthan on 01.10.2004 recommended the State Government for grant of regular pay scale to Nidhi Lipiks, accordingly in the year 2008 the pay scale of Rs. 2200-4500/- was allowed to the petitioner. Being in Ministerial Cadre of Devasthan Department since 1981, the petitioner has claimed to be considered for regularization by way of screening as per Sub-rule (7) of Rule 25 of the Rajasthan Subordinate Offices Ministerial Staff Rules, 1957 ("for short "the Rules of 1957"). Reliance is placed by learned Counsel for the petitioner upon a Division Bench judgment of this Court in State of Rajasthan v. Smt. Kanchan Devi DB Civil Special Appeal (Writ) No. 403/2001 decided on 04.09.2001. In the case aforesaid, it was held that the persons, who were not discharging any functions envisaged to be discharged by the staff to be recruited for self supporting temples under the Rules of 1959, but are working in Devasthan Offices, are required to be treated as adhoc appointees, thus are entitled to be considered for regularization by way of screening as per Rule 25(10) of the Rules of 1957.

2. From perusal of the facts of present case, it is apparent that the petitioner was not discharging any duties relating to a self supporting temple, but his services

were utilizing as Clerk in the office of Assistant Commissioner, Devasthan, Udaipur. The office of the Assistant Commissioner, Devasthan is an office under the State Government and, therefore, the petitioner's case in no way can be distinguished with the case of the petitioner in DBCSA(W) No. 403/2001. In the instant matter, the petitioner was employed as Nidhi Clerk on 31.12.1981, therefore, he is required to be screened as per Sub-rule (7) of Rule 25 of the Rules of 1957, that reads as follows:

Notwithstanding anything contained in Rule 27, all persons working as Lower Division Clerks during the period from 01.04.1980 to 31.12.1984 on Urgent temporary basis and those appointed under the specific directions of the Govt, in the year 1985 on urgent temporary basis to the post of L.D.C. and who have not passed the competitive examination held by Commission as yet, shall on availability of permanent vacancies be made permanent subject to the condition that they pass a qualifying examination conducted by the Commission in accordance with the syllabus prescribed in part-II of Schedule I:

Provided that the Commission shall not recommend any candidate who has failed to obtain a minimum of 35% marks in each of the compulsory and optional papers in the Lower Division Clerks Examination:

Provided further that if a person fails to pass the said examination his service shall be terminated by the appointing authority after expiry of 30 days from the date of receiving list of successful candidates in respective Heads of Department from the Deptt. Of Personnal and Administrative Reforms (Gr. III) or from the Commission as the case may be.

3. For the reasons mentioned above, this petition for writ is allowed. The petitioner is declared entitled to be considered for regularization by way of screening as per Sub-rule (7) of Rule 25 of the Rules of 1957. The respondents are directed to screen the petitioner as per the provision referred above within a period of three months. The petitioner shall be entitled for all consequential benefits on notional basis. No order to cost.