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**(2013) 03 RAJ CK 0046**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 4407 of 2013**

Ravi Kumar Sharma

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

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**Date of Decision :** 20-03-2013

**Acts Referred:**

Constitution of India, 1950 — Article 14, 16  
Rajasthan Panchayati Raj Act, 1994 — Section 102

**Citation :** (2013) 03 RAJ CK 0046

**Hon'ble Judges :** Narendra Kumar Jain, J; Meena V. Gomber, J

**Bench :** Division Bench

**Advocate :** Dinesh Kumar Garg, for the Appellant;

**Final Decision :** Dismissed

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## Judgement

1. Heard the learned counsel for petitioner. Petitioner has preferred this writ petition challenging the Notification dated 29.01.2013, issued by the Department of Rural Development & Panchayati Raj, Government of Rajasthan, whereby existing second proviso to Rule 273 of the Rajasthan Panchayati Raj Rules, 1996(hereinafter referred to as "the Rules of 1996"), has been substituted by a new proviso, as mentioned in the above Notification.

2. Submission of the learned counsel for petitioner is that the petitioner was appointed as Lower Division Clerk, on contract basis, in the Office of the Assistant Director (Prosecution), Dholpur. From his experience certificate dated 17.12.2012(Annexure-5), it is clear that petitioner had worked for about 5 years and 3 months on the said post. He submitted that as per the amendment made in Rule 273 of the Rules of 1996, the persons who are working in MGNREGA or any other scheme of the Department of Rural Development and Panchayati Raj in the State, will get extra benefit as they will be awarded such marks, on the basis of their experience of more than one year, which will be taken into consideration while preparing the merit list for the post of LDC. He submitted that the State of Rajasthan is a welfare State and they cannot discriminate between two

employees of two different departments. The petitioner had worked as LDC on contract basis in Prosecution Department and the same weightage should have been given to the experience acquired in other department, which is being given to persons who acquired experience in Panchayati Raj Department also. He, therefore, submitted that the impugned amendment made in Rule 273 of the Rules of 1996, vide Notification dated 29.01.2013, is arbitrary, unconstitutional and violative of Articles 14 and 16 of the Constitution of India and it may be declared as unconstitutional.

3. We have considered the submissions of the learned counsel for petitioner.

4. For ready reference, Notification dated 29.01.2013 is reproduced as under:-

GOVERNMENT OF RAJASTHAN

DEPARTMENT OF RURAL DEVELOPMENT & PANCHAYATI RAJ

(PANCHAYATI RAJ)

No. F.4(7) Ame./Rules/Legal/PR/2012/107

Jaipur, Dated 29-01-2013

NOTIFICATION

In exercise of the powers conferred by section 102 of the Rajasthan Panchayati Raj Act, 1994(Act No. 13 of 1994) and all other powers enabling it in this behalf, the State Government hereby makes the following rules further to amend the Rajasthan Panchayati Raj Rules, 1996, namely:-

1. Short title and commencement.-(1) These rules may be called the Rajasthan Panchayati Raj (Amendment) Rules, 2013.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Amendment of rule 273.-The existing second proviso to rule 273 of the Rajasthan Panchayati Raj Rules, 1996, shall be substituted by the following, namely-

Provided also that in case of appointment to the post of Lower Division Clerk, merit shall be prepared by the Appointing Authority on the basis of such weightage as may be specified by the State Government for the marks obtained in Senior Secondary or its equivalent examination and such marks as may be specified by the State Government having regard to the length of experience exceeding one year acquired by persons engaged on the post of Junior Technical Assistant (J.T.A.), Junior Engineer, Gram Rozgar Sahayak, Data Entry Operator, Computer Operator with Machine, Lekha Sahayak, Lower Division Clerk, Co-ordinator IEC, Coordinator Training, Coordinator Supervision, other than through placement agency, in MGNREGA or in any other scheme of the Department of Rural Development and Panchayati Raj in the State.

Explanation: Wherever percentage of the marks can not be ascertained due to grade awarded to the candidate in the particular examination, the median of the grade awarded to the candidate in such examination shall be basis for the preparation of the merit list.

By order and in the name of the Governor

Sd/-

(KISHAN LAL BADETIYA)

Deputy Secretary to the Government.

5. From the above Notification, it is clear that Rule 273 of the Rules of 1996, has been amended by substituting the existing second proviso in the Rules of 1996. The amendment has been made in the Panchayati Raj Rules by the Panchayati Raj Department giving extra marks of the experience acquired in MGNREGA or under the scheme of its own Department i.e. Rural Development and Panchayati Raj Department. In this regard it is relevant to mention that it is for the State Government to frame, amend, delete or substitute any Rule. The State Government is the rule making authority. However, any amendment made in the rule can be judged by this Court.

6. From the amendment made in Rule 273 of the Rules of 1996, it is clear that it is reasonable and it has been amended only to give benefit to its own employees having specific experience in their own Department. We find no illegality or arbitrariness in it. There are various departments in the State of Rajasthan and any employee having experience in any other department, has not been included in it. Therefore, giving weightage to those employees, who are having experience in the same department, is proper and they can be awarded marks by the State Government on the basis of length of their experience exceeding one year.

7. The petitioner had worked in the Prosecution Department as contractual employee. He is eligible to apply for the post of LDC, advertised by the Panchayati Raj Department, Government of Rajasthan also. The grievance of the petitioner appears to be that no extra benefit should be given to those persons, who are having experience in the Panchayati Raj Department or the benefit should be given to all the persons, who are having experience in any of the departments of the State Government.

8. We find no substance in the submissions of the learned counsel for petitioner. It is for the State Government to give some more weightage to the employees of its own Department on the basis of their experience exceeding one year. Such an amendment in rule cannot be said to be arbitrary. Thus, we find no arbitrariness or unconstitutionality in the rule, which has been substituted by the Notification dated 29.01.2013.

9. In view of above, we do not find any force in the submissions of the learned counsel for petitioner. The writ petition deserves to be dismissed and the same is

hereby dismissed. Civil Misc. Stay Application No. 3424/2013 also stand dismissed.