
(1996) 08 RAJ CK 0043

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3819 of 1994

Rodu Lal

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 05-08-1996

Acts Referred:

Citation : (1996) 3 RLW 276 : (1997) 1 WLC 471 : (1996) 2 WLN 19

Hon'ble Judges : Arun Madan, J

Bench : Single Bench

Judgement

Arun Madan, J.—I have heard the learned Counsel for the parties and also perused the relevant documents, placed on the record, as well as the reply filed by the respondents to the writ petition.

2. The grievance of the petitioner is that in pursuance of an advertisement, applications were invited by the office of the respondent No. 2 from prospective candidates for appointment to the post of Agricultural Supervisor. In pursuance of the said advertisement, the petitioner had submitted all relevant particulars in lieu of which he was called for interview on 19th July, 93. The petitioner complied with the said communication and after due process of selection, selected candidates including the petitioner were directed to report on duty latest by 16.12.93, failing which their appointment shall be treated as cancelled. The grievance of the petitioner is that he came to know too late about his appointment on the said date because the appointment letter could not be served on him in time and as a result of this, he could not report for duty in the office of respondent No. 2 on or before the intended date as a result of communication gap on account of circumstances beyond the petitioner's control and for which he cannot be blamed, on account of the postal delays. This fact is borne out from Annexure-R/1 to the reply, filed by the respondents, the true copy of which has also been annexed by the petitioner alongwith the writ petition vide Annexure- 6. A perusal of the said document reveals that the petitioner had not refused the receipt of the said registered letter since the postal authorities have clearly

mentioned that the said registered article could not be served on the petitioner as it did not pertain to the concerned Branch office falling within the residence of the petitioner and hence it was returned back to the post office at Bundi unserved. The petitioner became aware of the aforesaid communication at a later stage that he was to report for duty at respondent's office latest by 16th December'93, whereas he could not report for duty till 2nd of August'94, when a second communication was issued to him calling upon him to report for duty w.e.f. 16th December'93.

3. It has been contended by the learned Counsel for the petitioner at the bar that the petitioner cannot be blamed for any inadvertent lapse on his part since for the aforesaid reasons the petitioner was ready to joint duty and he reported for duty on 16th of December'93 as aforesaid as soon as he became aware of the aforesaid communication. It has further been contended that the petitioner had also approached the Secretary, Rajasthan State Legal Aid Board, Jaipur and had submitted a representation to him. In response to the same, the Secretary of the Board had written a letter to respondent No. 2 stating inter-alia that no registered letter was received by the petitioner from respondent No. 2 containing the appointment letter and in facts and circumstances of the case, the joining time of the petitioner be extended and he should be given appointment.

4. In the reply to the writ petition filed by the respondents, they have controverted the contentions of the petitioner on the grounds inter-alia that the petitioner in fact knew about the date of joining and he had purposely delayed to report for duty. However, the respondents have not denied the despatch of the earlier communication, wherein the postal authority has mentioned that since the said article does not belong to this branch office, therefore, it should be sent to Bundi head office for which delay has been caused. It has been contended by the learned Counsel for the petitioner in this regard that it goes to show that the appointment letter was never received by the petitioner and in fact it was delivered at a wrong station by the respondent-authorities. This fact is also fortified by the letter dated 25.3.94 sent by the post office of Neem-Ka-Kheda to respondent No. 2 that no registry was received in the name of petitioner by this Branch.

5. In my considered opinion, the petitioner cannot be blamed for any lapse on his part. The reasons for the delay in the communication are obvious as a result of which the petitioner was prevented from, reporting for duty within the stipulated time on account of circumstances beyond his control. In such circumstances, it was required of the respondents as a matter of abundant caution to have sent a telegraphic communication to the petitioner apart from the registered letter as referred to above, which admittedly they have not done.

6. Now the following questions arises for consideration of this Court:

(1) from what date the seniority of the petitioner should be reckoned ?

(2) from what date the petitioner is entitled for the arrears of salary ? and

(3) at what number the seniority should be fixed?

7. In my considered opinion, the petitioner deserves to be fixed in the pay-scale of the Agricultural Supervisor as admissible to similarly placed employees w.e.f. 16th December 1993 i.e. the date from which the petitioner should have reported for duty and the seniority should also be reckoned from the said date in the suitable scale as admissible to him. Consequently, the petitioner is also entitled to be given the arrears of the salary w.e.f. the said date. However keeping in view the facts and circumstances of the case, the petitioner is not entitled to claim any interest for the reason of the delayed payment. The writ petition is consequently allowed as referred to above with no order as to costs.

8. Since the petitioner has already joined and report for duty on the post of Agricultural Supervisor in the office of respondent No. 2 w.e.f. 16th August'94, no mandamus be issued in this regard.

9. The respondents are directed to release the arrears of salary as well as the other benefits admissible to the petitioner in the scale of Agricultural Supervisor within a period of three months from the submission of certified copy of this order.