

**(2013) 07 RAJ CK 0119**

**In the Rajasthan High Court**

**Case No :** Civil Special Appeal No. 781 of 2000 in Civil Writ Petition No. 1569 of 1994

Shreedhar Calla

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

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**Date of Decision :** 02-07-2013

**Acts Referred:**

Constitution of India, 1950 — Article 14

**Citation :** (2013) 07 RAJ CK 0119

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

**Bench :** Division Bench

**Advocate :** Kawal Singh Loha, for the Appellant; S.N. Kumawat, Additional Advocate General, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

1. Heard the learned counsel for the parties. Petitioner/appellant preferred S.B. Civil Writ Petition No. 1569/1994 before the Single Bench with the following prayer:-

(a) the respondents be directed to produce the relevant record before this Hon"ble Court for perusal.

(b) the impugned action of the respondents in keeping the post of Joint Director, Sheep & Wool Department as an ex-cadre post in the given facts and circumstances of the case may be declared as arbitrary, unreasonable, unjust and improper, therefore, violative of Article 14 of the Constitution of India.

(c) The respondents may be directed to take all necessary steps and do all that is needful for issuance of a proper notification in the light and context of the communication dated 4.5.93 addressed to the R.P.S.C.

(d) the impugned order dated 18.3.1994 in so far as it seeks to appoint a non-technical person on the post of Director, Sheep & Wool Department and in so far

as it seeks to relegate the petitioner back to the ex-cadre post of Joint Director may be declared as illegal, invalid, ultra-vires and unconstitutional and may be quashed and set aside.

(e) Any other appropriate writ, order or direction which may be considered just and proper in the facts and circumstances of the case may also kindly be passed in favour of the petitioner.

2. Similar/connected writ petition i.e. S.B. Civil Writ Petition No. 1851/1986, filed by the petitioner, was also heard along with S.B. Civil Writ Petition No. 1569/1994. The learned Single Judge, vide judgment dated 23.06.1999, disposed of the writ petition in the following terms:-

(i) The State Govt. shall consult the Rajasthan Public Service Commission in respect of availability of suitable persons for promotion to the post of Director Sheep and Wool.

(ii) If suitable persons are available recruitment shall be made in pursuance to Rule 6 of the Rules of 1975.

(iii) Aforesaid steps shall be taken by the State Govt. promptly.

3. Being aggrieved with the above judgment passed by learned Single Judge in S.B. Civil Writ Petition No. 1569/1994, the appellant has preferred the present Special Appeal.

4. Submission of the learned counsel for appellant is that appellant was holding the post of Joint Director and he assumed the charge of Director, when the post of Director became vacant. However, when an officer in the cadre of "IAS" was appointed as Director, then a writ petition was filed by the petitioner to the effect that post of Director should have been filled from the persons holding the post of Joint Director. He further submitted that since the petitioner was eligible to be appointed on the post of Director, he should have been appointed on the said post. Since, petitioner has now been retired during pendency of the writ petition, therefore, he should be granted all the retiral benefits of the post of Director.

5. Mr. S.N. Kumawat, learned Additional Advocate General, appearing on behalf of respondents, submitted that none of the persons holding the post of Joint Director was found suitable to be appointed on the post of Director, therefore, the State Government wrote a letter to the R.P.S.C. to that effect and the R.P.S.C. gave its consent for appointment on the post of Director, from the persons belonging to IAS cadre. He also submitted that petitioner/appellant retired from the post of Joint Director. He further submitted that petitioner has not claimed any promotion to the post of Director in the writ petition as well as in the appeal. Therefore, petitioner/appellant is not entitled for any retiral benefits of the post of Director.

6. We have considered the submissions of the learned counsel for the parties and examined the impugned order passed by the learned Single Judge and also the

pleadings and documents available on the record.

7. Learned counsel for appellant has not disputed that appellant was holding the post of Joint Director on the date of his retirement. He also admitted that appellant was not given any regular promotion on the post of Director. The learned Single Judge has specifically observed that petitioner has not prayed for his promotion to the post of Director.

8. We have also gone through the contents of the writ petition and we find that appellant has not prayed for his consideration on the post of Director on any date, before his retirement. From the prayer of the writ petition, reproduced above, it is clear that there was no such prayer made in the writ petition also. In these circumstances, we are unable to accept the contention of the learned counsel for appellant for granting retiral benefits to the petitioner/appellant, of the post of Director. In view of above discussion, we find no merit in this intra-Court appeal and the same is, accordingly, dismissed with no order as to costs.