
(1994) 05 RAJ CK 0048

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 131 of 1994

State and Others

APPELLANT

Vs

Babu Lal Sharma

RESPONDENT

Date of Decision : 04-05-1994

Acts Referred:

Citation : (1994) 1 RLW 292 : (1995) 1 WLC 35 : (1994) 2 WLN 569

Hon'ble Judges : G.C. Mittal, C.J;M.P. Singh, J

Bench : Division Bench

Judgement

M.P. Singh, J.—Babu Lal Sharma, the petitioner-respondent, was appointed by the Additional Registrar, Rajasthan High Court, Bench at Jaipur on 4-2-1987 with effect from 17-4-1987 as a Class-IV Employee on daily wages. This appointment was only for a period of 60 days. He was paid Rs. 11/- per day. The appointment was extended on 3-4-1987 for another period of 60 days at the rate of Rs. 20/- per day. Subsequently, by the order dated 16-8- 1987, he was made a regular Class- IV Employee in the pay scale of Rs. 700-850.

2. At times, the respondent was required to work as a carpenter as well. The pay scale of the carpenter initially was Rs. 850-1520 but was subsequently revised to Rs. 910-1530. So he claimed, that since he has been working as a carpenter, he should be paid the grade payable to a regular carpenter.

3. Asserting his claim he made a representation on 15-1-1990 to the Registrar, High Court. It was rejected vide order dated 13th August, 1990. On his further representation he was informed by the Registrar on 19-6-1991 that the State Government did not agree for the sanction of the post of a carpenter at Rajasthan High Court. Accordingly he could not be appointed as a regular carpenter.

4. Against the said order dated 19-6-1991 he filed the writ petition. Apart from praying for quashing of the said order of the Registrar dated 19th June, 1991 he claimed that a writ in the nature of mandamus be issued commanding the

Rajasthan High Court, Jodhpur and the State Government to appoint him as a regular carpenter with effect from 17-1-1987. A further prayer made was that he be given the pay scale of Rs. 850-1520 payable to a regular carpenter till 30th August, 1980 and thereafter he be paid the revised pay scale of Rs. 910-1530.

5. The State Government did not contest the writ petition. The Additional Registrar filed a reply on behalf of the High Court. It was stated that the petitioner was appointed as a regular Class-IV Employee but at times the petitioner was required to do the work of a carpenter as well. Since the State Government did not agree for creation of one post of carpenter at Jaipur Bench he could not be appointed as a regular carpenter. Moreover, he did not fulfil the minimum requisite conditions for appointment as a carpenter.

6. But during the pendency of the writ petition the State Government vide order dt. 8-6-1993 sanctioned the following posts:

7. Thus one post of Carpenter was sanctioned at Jodhpur and the other at Jaipur Bench apart from other posts which are not relevant for this case. But, while granting the sanction, a condition has been imposed by the Government that work would be got done only on contract basis.

8. The learned single Judge while allowing the writ petition has rightly held that the State Government had no jurisdiction to impose this condition which was a contradiction in terms of the sanction. After the post was sanctioned, it was for the Appointing Authority to appoint a person in accordance with law and to take work. The Govt., ceased to have any say in the matter thereafter. Upto this point we are in respectful agreement with the learned single Judge. He has further directed the Registrar High Court "to sanction the pay scale of all the posts enumerated in letter dated 8-7-1993. The pay scale should become effective from 8-7-1993. The petitioner was also to be given the pay scale of the post of carpenter with effect from that date. The registrar was directed to pay the entire arrears within a period of four months". This part of the order is not acceptable to us.

9. In our considered opinion the matter should have been left open for consideration by the Appointing Authority itself because for appointment of a carpenter certain requisite conditions are required to be fulfilled which have not been discussed by the learned single Judge.

10. After the sanction has been granted the Appointing Authority will be required to examine whether the petitioner fulfills the necessary conditions to be appointed as a regular carpenter or not. Accordingly, we leave it open to the Registrar, who is the Appointing Authority, to consider the appointment of a regular carpenter in the High Court in accordance with law. While doing so he shall give due weightage to the fact that Babu Lal Sharma has worked for more than 7 years and has also worked at times as a carpenter but the eligibility conditions will not be ignored. This exercise has to be completed within three months from today.

11. With this modification the special appeal is partly allowed. Parties to bear their own costs.