
(2017) 03 RAJ CK 0108
In the Rajasthan High Court
Case No : 1138 of 2017

State of Rajasthan

APPELLANT

Vs

Deen Dayal S/o Pusa Ram

RESPONDENT

Date of Decision : 27-03-2017

Acts Referred:

[Constitution of India](#), [Article 227](#) -
Power of superintendence over all courts by the High Court

Citation : (2017) 03 RAJ CK 0108

Hon'ble Judges : Dinesh Mehta

Bench : SINGLE BENCH

Advocate : N.K. Mehta

Final Decision : Dismissed

Judgement

1. By way of present writ petition, petitioner has challenged the award dated 01.06.2016 passed by the Industrial Tribunal and Labour Court, Jodhpur, whereby the reference made at the instance of the workman has been allowed. The skeleton facts necessary for the decision of the present writ petition are that the respondent No.2-workman had raised an Industrial Dispute seeking his promotion with effect from 02.05.1981, when persons junior to him were promoted to the post of Lower Division Clerk. After following the due process a reference was made by the State Government which came to be decided by the Labour Court vide order dated 01.06.2016, wherein the Labour Court below has found that in light of the Division Bench decision dated

04.12.1987, workman was entitled for promotion to the post of Lower Division Clerk from class 4th employee.

2. Mr. Mehta, learned counsel for the petitioner assailing the order impugned dated 01.06.2016 submitted that the Labour Court has no jurisdiction to pass an award granting promotion on the post of LDC inasmuch as Lower Division Clerk, not being a workman cannot approach Labour Court for redressal of his grievance.

3. Heard learned counsel for the petitioner and perused the matter available on record.

4. Argument of the petitioner that the Labour Court could not pass an award for promoting a class four employee to the post of LDC, is unsustainable. At the time of raising a dispute, the workman-Respondent No.2 was undeniably a work-charge-employee, as such, the Labour Court did have the jurisdiction to decide the dispute in question. More so such question of jurisdiction was not raised before the Labour Court.

5. Hence, the petitioner-State cannot raise the question of jurisdiction once having submitted to the jurisdiction of the Labour Court.

6. In response to the query of the Court about the Division Bench judgment dated 04.12.1987, he could not bring to the notice of the Court, any subsequent order of Supreme Court or otherwise vide which the claim of the respondent could be justifiably denied.

7. It is also to be noticed that this Court had held the respondent No.2, entitled for promotion w.e.f 02.05.1981 when the person junior to him were promoted.

8. There is no substance in the present writ petition submitted under Article 227 of the Constitution of India and the same is

hereby dismissed.