

(2017) 11 RAJ CK 0062
In the Rajasthan High Court
Case No : 7795 of 2014

Sumer Singh Bhati S/o Sh. Ummed Singh	APPELLANT
Vs	
State of Rajasthan	RESPONDENT

Date of Decision : 22-11-2017

Acts Referred:

Citation : (2017) 11 RAJ CK 0062

Hon'ble Judges : Arun Bhansali

Bench : SINGLE BENCH

Advocate : Vikas Bijrania, Narendra Singh Rajpurohit

Final Decision : Disposed

Judgement

1. This writ petition has been filed by the petitioner seeking a direction to the respondents to treat the petitioner appointed on the post of Accountant from the date on which, persons lower in merit to the petitioner were appointed. Further directions have been sought for fixing the petitioner's seniority and pay & allowances from the date, persons junior to the petitioner were given appointment.
2. The writ petition arose in the circumstances that Rajasthan Public Service Commission, Rajasthan (RPSC) advertised vacancies for the post of Accountant and the petitioner applied for the same. The result of the petitioner was declared and after thrice revising the same, the petitioner was placed in merit list at 59th number. The petitioner got his documents verified and

completed other formalities, however, the respondents did not issue the appointment letter to the petitioner.

3. The petitioner filed the S.B. Civil Writ Petition

No.13997/2013, wherein notices were issued to the respondents, During the pendency of the writ petition, the petitioner was accorded appointment by order dated 29.5.2014 and, therefore, the writ petition was dismissed as infructuous.

4. It is submitted that the persons, who were lower in merit to the petitioner were accorded appointment on 31.1.2013 and petitioner was accorded appointment on 29.5.2014 and, therefore, direction is required to be issued to the respondents to treat the petitioner appointed on the date, persons lower in merit to the petitioner were appointed and grant him seniority and pay fixation taking into consideration the date, persons junior to petitioner were accorded appointment.

5. Response to the writ petition has been filed by the respondents, wherein, it is indicated, as part of preliminary objections, that the seniority of the petitioner is according to his merit i.e. 59/2011 and the petitioner does not become junior due to date of joining and his seniority remains as such and will remain as such according to the merit. Thereafter, it is indicated that as the petitioner assumed charge of the post on 10.6.2014, pay & allowances as admissible are granted from the date of joining and there is no question of grant of any pay or allowances on the basis of the fact that persons lower in merit joined earlier.

6. Learned counsel for the petitioner made submissions that though, response has been given that the petitioner would be treated as per his merit qua the persons, who were lower in merit, despite the fact that the persons lower in merit were accorded appointment on 31.1.2013 and the petitioner was accorded

appointment on 29.5.2014, the respondents may be directed to give notional benefits to the petitioner from the date on which, persons lower in merit, were appointed regarding pay & allowances as well.

7. Learned counsel appearing for the respondents submitted that the stand of the respondents is made clear in the reply, wherein, once the petitioner is treated as per his merit qua the persons lower in merit to the petitioner, the consequences would follow and, therefore, no direction needs to be issued in the present writ petition.

8. Having considered the submissions made by learned counsel for the parties and the specific stand taken by the respondents in the reply that irrespective of the date of appointment, the petitioner would be treated senior to the persons, who were lower in merit to the petitioner, no directions qua the said aspect needs to be given. However, it is directed that the pay & allowances of the petitioner would also be fixed notionally in accordance with pay & allowances as being paid to the persons, who were lower in merit to the petitioner at the relevant time, if not already done.

9. With the above directions, the writ petition filed by the petitioner stands disposed of.