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**(2015) 02 RAJ CK 0186**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 9714 of 2009**

Tej Bhan Arora

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

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**Date of Decision :** 19-02-2015

**Acts Referred:**

**Citation :** (2015) 02 RAJ CK 0186

**Hon'ble Judges :** Sandeep Mehta, J

**Bench :** Single Bench

**Advocate :** C.S. Kotwani, for the Appellant; Sunil Joshi for Rajesh Panwar, AAG, Advocates for the Respondent

**Final Decision :** Allowed

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## Judgement

Sandeep Mehta, J.

1. The petitioner has approached this Court by way of the instant writ petition praying for the issuance of a writ directing the respondents to extend the benefit of second selection grade to the petitioner from 18.1.2003 and all the consequential benefits ensuing therefrom.

2. Facts in brief are that the petitioner was selected as a LDC (Junior Stenographer) in the year 1980 by the District and Sessions Judge, Sriganganagar. He was confirmed on the said post by order dated 5.2.1986 w.e.f. 1.4.1981. The petitioner applied for the post of Stenographer Gr.II in the year 1984 under the provisions of Rajasthan Civil Court (Ministerial Establishment) Rules, 1958. He cleared the examination and was selected as a Stenographer Gr.II and was given posting at Anoopgarh on 16.1.1985. Initially, the petitioner's services were assigned to the Adult Education Department. The petitioner thereafter sought permission from the District and Sessions Judge, Sriganganagar and appeared in the examination being held by the RPSC for selection of Hindi Stenographer and was declared successful on 15.5.1991. The petitioner after having cleared the examination, submitted an application for

interdepartmental transfer and the said prayer was approved by the District and Sessions Judge, Sriganganagar by communication (Annex.10) dated 24.9.1991 sent to the Joint Legal Remembrancer and Director Prosecution, Government of Rajasthan. The Joint Legal Remembrancer issued a letter (Annex.11) dated 17.11.1992 directing interdepartmental transfer of the petitioner from the court of the CJM, Sriganganagar to the office of the Public Prosecutor, Sriganganagar. While directing the said interdepartmental transfer, it was specifically ordered that the petitioner shall be assigned seniority below all the Stenographers working in the department and that his services would be liable to be terminated upon availability of Stenographers from the Public Service Commission. The District Collector, Sriganganagar issued an order (Annex.12) dated 2.8.1994 to the effect that the petitioner had completed 9 years of service as a Stenographer on 18.1.1994 and thus, the first selection scale upon completing 9 years of service was granted to him in the pay scale of 1640-2900 fixed at Rs. 1760/- per month. Upon completing 18 years of service on 18.1.2003, the petitioner submitted an application to the Joint Legal Remembrancer cum Director Prosecution, Law Department for being granted benefits of second selection scale. The Additional Director Prosecution communicated a decision to the District Collector, Sriganganagar by letter dated 30.10.2006 that since the petitioner had not joined at the place of his scheduled posting i.e. Directorate of Adult Education, therefore, mere clearing of the departmental examination by the petitioner was of no use whatsoever. The petitioner had been accepted as a Stenographer in the Prosecution Department upon interdepartmental transfer, which did not confer the status of a regular appointment. Therefore, the petitioner was not entitled to second selection scale, the benefits whereof could be extended only if the employee was in regular service. Being aggrieved of the said order dated 30.10.2006, the petitioner submitted representations to the respondent authorities and also forwarded a legal notice for demand of justice. However, the said notice was not responded to, upon which, the petitioner has approached this Court by way of the instant writ petition praying for the aforestated relief.

3. Learned counsel for the petitioner submitted that the action of the respondents in denying the benefits of the second selection scale to the petitioner is totally unjustified and illegal. The petitioner passed the departmental examination and was appointed as a Stenographer in the State Services in the year 1991. Prior thereto, the petitioner was working as a Stenographer in the District Court, Sriganganagar having been regularly appointed in the pay scale, way-back in the year 1981. After the petitioner was successful in the examination conducted by the RPSC, he was appointed as a Stenographer in the Adult Education Department and his services were allotted to the said department by communication dated 24.7.1992. The consequential order posting the petitioner in the office of District Adult Education Officer, Churu came to be passed by the Director on 14.12.1992. However, soon after passing the examination on 15.5.1991 the petitioner submitted an application to the Legal

Remembrancer and the Director of the Law Department for transferring him against the vacant post of Stenographer in the office of the Public Prosecutor, Sriganganagar. The District and Sessions Judge, Sriganganagar wrote a letter (Annex.10) dated 24.9.1991 to the Assistant Law Remembrancer and Director Prosecution, Government of Rajasthan Jaipur giving a no objection to the employee's transfer to the prosecution wing. Thereafter, the order (Annex.11) came to be passed by Joint Legal Remembrancer whereby the petitioner was transferred to the office of the Public Prosecutor, Sriganganagar. Learned counsel submitted that on receiving the said letter, the petitioner immediately assumed charge in the office of the Public Prosecutor and continuously discharged duties to the satisfaction of his senior officers. The District Collector, Sriganganagar on being satisfied with the petitioner's services extended the benefit of first selection scale to the petitioner upon completing 9 years of service by order (Annex.12) dated 2.8.1994. Thus depriving the petitioner of the benefit of the second selection scale is absolutely unjustified. He, therefore, prayed that the writ petition deserves to be accepted.

4. Per contra Shri Sunil Joshi assistant to Mr. Rajesh Panwar, learned AAG contended that after clearing the competitive examination for the post of Stenographer, the petitioner was given posting as a Stenographer in the office of the District Adult Education Officer, Churu vide order (Annex.8) dated 14.12.1992. However, he did not join at Churu pursuant to the said order. Thus, it is contended that the position of the petitioner remained the same as existed before his selection. The petitioner's transfer to the office of the Public Prosecutor was purely a temporary and ad-hoc measure, which is reflected from the tenor of the order (Annex.10), which reads that the petitioner's services were temporary and could be discontinued upon selected candidates being made available by the RPSC. Thus, he contended that the petitioner is not entitled to the benefit of selection scales as prayed in the writ petition.

5. Heard and considered the arguments advanced at the bar and perused the material available on record.

6. The fact that the petitioner was in the regular service of the District and Sessions Judge, Sriganganagar pursuant to his appointment under the Rajasthan Civil Court (Ministerial Establishment) Rules, 1958 is not disputed. While being in service, the petitioner sought permission to appear in the competitive examination of Stenographer conducted by the RPSC and cleared the same on 15.5.1991. Subsequent to clearing the examination, the petitioner submitted an application for interdepartmental transfer to the Law Department. The District Judge recommended his transfer by order (Annex.10) dated 24.9.1991. The Director Prosecution issued a letter (Annex.11) dated 17.11.1992 whereby the petitioner's interdepartmental transfer was approved. However, the said transfer was accepted with a word of caution that the petitioner would be placed below all the other Stenographers working in the department in the order of seniority and that his services would be liable to be terminated in the event of Stenographer

being provided by the RPSC. As a matter of fact, this, conditional transfer was absolutely uncalled for. As the petitioner was not given posting in the Law Department pursuant to his selection, the Law Department could have refused the petitioner's prayer for interdepartmental transfer. The condition that the petitioner's services were liable to be terminated upon the candidates being available from the RPSC is as a matter of fact fallacious, inasmuch as, the petitioner was duly selected as a Stenographer by the Commission. As per the prevalent service rules, the petitioner was required to be assigned the lowest place in seniority but the remaining benefits of continuing service for the purpose of pay scale etc. were admissible to the petitioner even after his departmental transfer. The District Collector, Sriganaganagar extended the benefit of the first selection scale to the petitioner by the order (Annex.12) dated 2.8.1994 treating him to be in continuous service from the date of his initial appointment in the District Court. The subsequent order (Annex.14) dated 23.11.2006 whereby the benefit of second selection scale was denied to the petitioner is absolutely without any justification. The reasoning on the basis whereof the said letter was issued was the letter dated 30.10.2006 issued by the Joint Legal Remembrancer to the effect that the petitioner did not join duties in his assigned place of posting i.e. the Adult Education Department and therefore, the interdepartmental transfer was having no sanctity.

7. In the opinion of this Court, once the petitioner's interdepartmental transfer was approved and sanctioned and the petitioner started functioning in the office of the Public Prosecutor, Sriganaganagar and was also assigned seniority at the admissible position, it does not lie in the mouth of the respondent Law Department to claim that the petitioner's service was not regular. The whole controversy appears to be the out come of an interdepartmental skirmish and nothing beyond that. If at all, the State authorities were of the view that the petitioner failed to join duties in pursuance of the letter (Annex.11) dated 17.11.1992, then appropriate departmental action should have been initiated against him. The permission for interdepartmental transfer sought by the petitioner should have been rejected outright. The petitioner's interdepartmental transfer was approved and sanctioned by competent responsible officers of the respective departments with open eyes. It is expected and required of the government officials of the respective departments to exercise their jurisdiction with complete coordination while dealing with the case of interdepartmental transfer. In spite of the impugned order dated 23.11.2006 (Annex.14) being passed, the benefit of first selection scale extended to the petitioner under the order (Annex.12) dated 2.8.1994 has not been disturbed. Therefore, as a consequence and by necessary implication, the petitioner would be entitled to receive the benefit of the subsequent selection scale as well upon completing 18 and 27 years of service from the date of his regular induction in service i.e. 1.4.1981.

8. The writ petition thus deserves to be and is hereby allowed. The impugned order (Annex.14) dated 23.11.2006 is quashed and set aside as being arbitrary

and illegal. The respondents are directed to release the benefits of second and third selection scales to the petitioner with reference to the date of his regular induction in State services i.e. 1.4.1981 with all consequential benefits.

9. No order as to costs.