
(2014) 09 RAJ CK 0058

In the Rajasthan High Court

Case No : DB Civil Writ Petition No. 7275/2002

The State of Rajasthan

APPELLANT

Vs

Kundan Lal Sharma

RESPONDENT

Date of Decision : 02-09-2014

Acts Referred:

Citation : (2014) 09 RAJ CK 0058

Hon'ble Judges : J.K. Ranka, J;Ajay Rastogi, J

Bench : Division Bench

Advocate : GS Gehlot, Sr. Joint LR and Bhawani Shankar, SO-DOP (A-1), Lt. Sectt, Advocate for the Appellant; Party-in-Person, Advocate for the Respondent

Final Decision : Allowed

Judgement

1. Instant writ petition is directed against the order of the Central Administrative Tribunal dt. 07/06/2002.

2. The facts which can be culled out from the record are that the respondent-officer challenged the order dt. 05/08/1997 whereby appointments made to the Indian Police Service (for short, "IPS") cadre and his grievance was that by order dt. 23/04/1997 he was granted benefit of selection scale on the basis of merit against the year 1985-86 in Rajasthan Police Service (for short, "RPS") cadre and accordingly his candidature should have been considered for promotion in the IPS cadre but the fact is that after filing of the OA but before the matter could be considered by the Tribunal, the order, which was the basis for the respondent-officer in calling upon the Union of India and the State of Rajasthan to review and reconsider the candidature of the respondent-officer for promotion to IPS cadre, stood revised and the year, which was earlier assigned to him in the selection scale of RPS vide order dt. 23/04/1997, stood revised and he was promoted in the selection scale of RPS on the basis of merit against the vacancy of the year 1987-88 vide order dt. 14/06/2000 copy of which has been filed by the petitioners alongwith writ petition as Ann. 10.

3. Indisputably, in the order of the Tribunal, impugned in the instant proceedings, there is no reference revising his year of selection scale from 1985-86 to 1987-88 vide subsequent order dt. 14/06/2000 and consequential order dt. 12/09/2000 revising the year of appointment in the IPS cadre and if this order would have been on record before the Tribunal, what has been considered and observed by the Tribunal, for considering candidature of the respondent-officer for appointment to IPS cadre in reference to the seniority assigned pursuant to order dt. 23/04/1997, could not have been made and as informed to this Court the respondent-officer has retired from service while working in the IPS cadre on 31/03/2004.

4. Taking note of the facts brought to our notice, there is option before us either to remit the matter back to the Tribunal or to consider as to what would be the effect of the change in seniority assigned to the respondent-officer on his selection scale being revised from 1985-86 to 1987-88 vide order dt. 14/06/2000, since he has already retired from service in 2004, we consider it appropriate to take later option and consider as to whether he will be entitled to get any substantial relief in the light of change in seniority assigned to him in selection scale of RPS after being promoted against the vacancy of the year of 1987-88 vide order dt. 14/06/2000.

5. The fact, which has come on record from the additional affidavit filed by the petitioners that the Review Selection Committee meeting was held on 25th and 26th July, 2000 and the Review Selection Committee, taking note of the select lists of the years 1990-91 to 1994-95, prepared for considering promotion to IPS cadre of Rajasthan on the basis of revision in the seniority of RPS officers in compliance of certain directions of this Court as also the Supreme Court, considered candidature of all officers, who were falling in the zone of consideration including respondent-applicant and we find that his name was considered by the Committee and based on his service record, he was found to be suitable on an overall assessment of his service record for the year 1991-92 and since the review has taken place by the Committee for the years 1990-91 upto 1994-95 a consolidated order was passed of the officers who were recommended for appointment in the IPS cadre vide order dt. 12/09/2000 (Ann. 8 to the writ petition) and the name of the respondent-officer finds place at serial No. 6 and while holding the post in the IPS cadre, he stood retired from service on 31/03/2004. It is an admitted position before this Court that neither the order dt. 14/06/2000 revising the selection scale in the RPS cadre of the respondent-applicant from 1985-86 to 1987-88 nor the consequential order regarding appointment to IPS cadre dt. 12/09/2000, passed on review by the Selection Committee of the officers was placed before the Tribunal for consideration nor it was the subject matter of challenge at the instance of the respondent-officer.

6. However, objection of the respondent-officer before us is that one of the officer namely; Shri V.K. Godika, who was promoted in IPS cadre prior to him but after final order came to be passed revising selection scale of RPS officers where

the respondent-officer was promoted against the vacancies of the 1987-88 on the basis of merit, Shri V.K. Godika, who was originally senior to him at the entry point in RPS cadre but he was promoted in the selection scale of RPS against the vacancies of 1988-89 and being senior to him, he has a right of fair consideration for promotion in IPS cadre at least from the date Shri V.K. Godika was appointed in the IPS cadre.

7. To meet out his objection, the officers, appearing on behalf of the petitioners, submitted that the review committee met and considered the candidature of all the officers who were appointed according to the revised seniority in the RPS cadre and as regard Shri VK Godia is concerned, his seniority obviously stood revised by virtue of his promotion in selection scale of RPS of 1988-89 but his appointment to the IPS cadre was never under challenge and no objection was raised either at the stage when the original application was filed by the respondent-officer before the Tribunal or before this court and since all the officers have now retired from service, review of the recommendation by the committee at later stage is not going to serve any purpose.

8. Apart from the facts, which we have already taken note of, we too find substance in the submission made before us by the petitioners. Indisputably, Shri V.K. Godia and the present respondent-applicant, both were in the IPS cadre and retired from service as IPS Officers and the review committee also met and revised the appointments in the IPS cadre from 1990-91 to 1994-95 and as a consequence thereof, the order was passed by the competent authority on 12/09/2000 assigning the year of appointment to the respondent-officer in the IPS cadre which was never the subject matter of challenge in any of the proceedings and the fact in particular that he too was appointed/promoted in IPS cadre and retired from service as an IPS officer in 2004, taking note thereof, we do not find any substance in now considering his grievance brought to our notice but this fact can be noticed that the order of the Tribunal to consider the candidature of the respondent-officer based on the order dt. 23/04/1997, which indisputably stood revised by a subsequent order dt. 14/06/2000, cannot be considered to sustain in the eye of law.

9. Consequently, the writ petition stands allowed. The order of the Tribunal impugned in the instant proceedings dt. 07/06/2002 is hereby quashed & set aside. No order as to costs.