

(2013) 08 RAJ CK 0074

In the Rajasthan High Court

Case No : Civil Writ Petition No. 6831 of 2013

Union of India and Others

APPELLANT

Vs

Kapoor Chand and Another

RESPONDENT

Date of Decision : 01-08-2013

Acts Referred:

Citation : (2014) 1 WLN 306

Hon'ble Judges : Vishnu Kumar Mathur, J;Govind Mathur, J

Bench : Division Bench

Advocate : Jagdish Vyas, for the Appellant;

Final Decision : Dismissed

Judgement

Govind Mathur, J.—To question correctness of the judgment dt. 08.08.2012 passed in Original Application No. 70/2009 by the Central Administrative Tribunal, Jodhpur Bench, Jodhpur this petition for writ is preferred. By the judgment aforesaid learned Tribunal directed the respondents to treat the applicant respondent as having been promoted to the post of RR Cook in the scale of Rs. 4000-6000 with all consequential benefits. It is submitted by counsel for the petitioners that the order impugned is bad in view of the fact that no such direction could have been given as the original applicant respondent never joined promotional post.

2. The factual matrix necessary to be noticed is that a promotion was accorded to the original applicant respondent as RR Cook under an order dt. 26.06.2008 and the same was received by him on 30.06.2008, the day on which he was retiring. Being last date in service it was not possible for him to get himself relieved from the feeder post and to join on the promotional post. The petitioners due to non-joining of the original applicant respondent did not allow the pensionary benefits relating to the promotional post to him, thus, he approached the Central Administrative Tribunal with a prayer to have a direction to the petitioners employer to treat him as promoted to the post of RR Cook w.e.f.

26.06.2008. Learned Tribunal after considering all facts of the case arrived at the conclusion that being received the order of promotion on 30.06.2008 it was not feasible for him to join the promotional post, as such the equity demands to treat him promoted on the post of RR Cook as per the order dt. 26.06.2008.

3. It is not in dispute that the order giving promotion to the original applicant respondent was passed on 26.06.2008 and the same was received by him on 30.06.2008, the date on which he was retiring. On the last date of service it was practically impossible to get relieved from the feeder post and to join the promotional post. As such, learned Tribunal rightly arrived at the conclusion that looking to the circumstances existing the employee has to be treated joined on promotional post and he is required to be treated as promoted to the post of RR Cook as per order dt. 26.06.2008. No interference, thus, is required in writ jurisdiction. The writ petition is dismissed accordingly.