

(1991) 08 RAJ CK 0024
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4480 of 1990

Vijay Singh

APPELLANT

Vs

Raj. State Transport Corporation and Others

RESPONDENT

Date of Decision : 01-08-1991

Acts Referred:

Citation : (1991) WLN 307

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

G.S. Singhvi, J.—Petitioner has made a prayer that the respondents be directed to issue appointment order in his favour appointing him as Conductor. It has, also been prayed that respondents be directed to fix the seniority with retrospective effect.

2. A selection for appointment on the post of Conductor was held for the Nagaur Depot of the Rajasthan State Transport Corporation (for short the Corporation) and a list of selected candidate was prepared. Petitioner's name was placed at Sr. No. 44 in the panel so prepared. The panel was sent by the Ajmer Division, under whose jurisdiction Depot falls. Later on, the panel was sent to the Divisional Manager, Udaipur for inquiry and verification in respect of the selected candidates to find out as to whether any candidate had worked earlier in the service of the Corporation. On the basis of inquiry made by the Divisional Manager of Udaipur Division, an information was sent by the Divisional Manager, Jodhpur that the petitioner was in employment of the Corporation earlier and his service had been terminated. The names of the selected candidates were thereafter sent back to Ajmer Division and appointments were given to all the candidates whose names were included in the select list. Petitioner was left out on the ground that he had not given the information about his previous employment with the service of the Corporation and termination of his service. When the petitioner came to know about this, he met the Divisional Manager,

Ajmer and informed him that he had never served the respondent Corporation at Jodhpur Division and, therefore, the information sent by the Jodhpur Division regarding his employment was factually incorrect. Petitioner made several representations even to the Divisional Manager, Jodhpur Division and ultimately a letter dated 31.10.1987 was given by the Divisional Manager, Jodhpur to the Divisional Manager, Ajmer intimating that the earlier note regarding the petitioner had been given my mistake and under suspicion. On the verification of the record. It was found that Vijay Singh S/o Shri Balwant Dass, Resident of village Kashi-ka-bas, Tehsil & District Sikar was never employed in Jodhpur Division. On the basis of this letter, the petitioner made representation to the Divisional Manager, Ajmer for being employed as Conductor. Petitioner thereafter submitted an application before the Chairman of the Corporation who did not accept the application, but suggested that the petitioner may approach the Managing Director of the Corporation. Petitioner made an application before the Managing Director, but he too declined to accept the same, subsequently, the application was accepted and it was forwarded to the Divisional Manager of the Ajmer Division for consideration. When nothing happened despite this communication from the Managing Director to the Divisional Manager, Ajmer the petitioner served a notice of demand for justice and then filed this writ petition.

3. In short, the case of the petitioner is that he has been deprived of appointment on the basis of his selection made by the respondent Corporation on wholly non-existent ground on the basis of a wrong report sent by the Jodhpur Division, he had been denied appointment and when Jodhpur Division had clarified the position, the Divisional Manager, Ajmer has not issued appropriate order and even after several representations made by the petitioner, he is yet to receive the order of appointment as Conductor. The writ petition was admitted on 21.1.1991, Time was given on 22.3.1991 to the respondents to file reply. After about 5 weeks, the case was listed on 30.4.1991 and 10 weeks further time was given to the respondents to file reply. However, no reply to the writ petition has been filed. Arguments were, therefore, heard on 17.7.1991.

4. The sole contention advanced by the learned Counsel for the petitioner is that the petitioner has been deprived of employment on account of the mistake committed by the authorities of the respondent Corporation. Persons who were selected along with the petitioner for employment in Nagaur Depot have been given appointment after verification of their antecedents etc. and, but for erroneous report from Jodhpur Division, the petitioner would have also been appointed. Even after the correct facts came to the notice of the authorities of the respondent Corporation, the petitioner has not been given appointment although a period of almost 4 years has passed. According to the learned Counsel for the petitioner, there is no justification for denial of appointment to the petitioner.

5. Learned Counsel for the respondents on the other hand submitted that the case of the petitioner is still under consideration and the respondent Corporation

is yet to take decision in the matter.

6. In my opinion, the argument of the learned Counsel for the petitioner must be accepted. The petitioner's assertion in the writ petition in relation to the reason for his non-appointment has not been controverted by the respondents. It is clear from the averments made in the petition that the petitioner has been deprived of employment on the basis of non-existent reason. But for the erroneous information furnished by Jodhpur Division, the petitioner would have been appointed along with other persons selected in the year 1984. It is not the case of the respondents that any decision had been taken not to give appointment to the selected persons on the basis of some other rational or legal reason. It must, therefore, be held that the petitioner has been deprived of employment without justification and this action of the respondents has resulted in hostile discrimination against the petitioner.

7. In *Krishi Upaj Mandi Samiti, Jodhpur v. State of Rajasthan* 1982 R.L.R. 762, a Division Bench of this Court has held that if appointment is denied to a person on extraneous or irrelevant ground, writ of mandamus can be issued by the court directing the respondents to appoint the selected persons.

8. The principles laid down in that case are fully applicable to the present case.

9. Consequently, the writ petition is allowed. Respondents are directed to issue order of appointment in favour of the petitioner appointing him on the post of conductor within one month of the date of presentation of copy of this order. The petitioner shall not be entitled to get monetary benefits upto the period of one month from the date of presentation of copy of this order, but he will be entitled to the benefit of seniority and notional fixation w.e.f. the date other persons had been appointed on the basis of selection of 1984.

10. No order as to costs.