
(1985) 04 RAJ CK 0012

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1475 of 1974

Yashwant Gauri Shanker Trivedi

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 22-04-1985

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (1985) 2 WLN 681

Hon'ble Judges : S.N. Bhargava, J

Bench : Single Bench

Judgement

Surendra Nath Bhargava, J.—The petitioner was initially appointed as Food Assistant in Agricultural department vide order dated 22-7-1950 in the grade of 100-5-115-10-200. The petitioner thereafter was selected on the post of Food Assistant by the Rajasthan Public Service Commission in the year 1952 and was confirmed on the said post with effect from 1-7-1959. The petitioner was thereafter appointed as Agricultural Extension Officer. Later on he was appointed as District Agricultural Officer in the pay scale of 200-600 which was revised to 285-800. Thereafter the petitioner was appointed as Assistant Conservation Officer, which is an equivalent post to that of District Agricultural Officer, in 1965. He was posted as a Lecturer in Gram Sewak Training Centre in the year 1972. He was posted as Agricultural Information Officer. The petitioner has thus claimed that he was senior to the non-petitioners. The seniority list was published vide Annexure 5 in the Rajasthan Rajpatra dated 1-2-1968 in exercise of the powers conferred by the proviso to Article 309 of the Constitution of India read with decision of Government of India under the provision of Section 115(2) of the State of Reorganisation Act, in 1955. In this seniority list of Agricultural Extension Officer, Agricultural Officer, Food Assistant, the petitioner Shri G.L. Sonkhiya was shown at No. 21. Another seniority list was published in the year 1971 wherein the petitioner was shown at serial No. 56 and Shri G.S. Sonkhiya was shown at No. 51. Several representations were submitted against this seniority list issued in the year 1971 and the matter was pending before the

Government as it is evident from Annx, 8 letter dt. 15-6-1974 of Deputy Secretary Agricultural Department Government of Rajasthan, Jaipur wherein it has been mentioned that during the discussion held in the chamber of the Agricultural Minister on 12/13-6-1974, the Agricultural Minister desired that the representation against seniority should be disposed of as expeditiously as possible. The non-petitioners were promoted on the post of Dy. Director in preference to the petitioner and, therefore, the present writ petition was filed on 10-6-1974 seeking a writ of certiorari for quashing the order dated 25-5-1974 promoting non-petitioners Shri Saxena, Shri Raina and Shri Sonkhiya on the post of Dy. Director and it was further prayed that seniority list dated 22-4-1971 so far as it relates to the position of non-petitioners vis-a-vis the petitioner should be quashed. It was also prayed that no further promotions should be made in pursuance of the seniority list dated 22-4-1971. The writ petition was admitted by this court on 13-6-1974 and it was ordered that since the non-petitioners No. 7 to 9 (in original writ petition) have already joined as Deputy Directors of Agriculture, the stay application has become infructuous and further directed that the State shall not promote any of other non-petitioners as Deputy Director without considering the case of the petitioner for promotion. The writ petition was amended and latest amended writ petition was filed on 16-4-1980. Learned counsel for the non-petitioners have not filed any reply to the writ petition.

2. A reply was filed by non-petitioner No. 3 Shri V.P. Mathur to the stay application. Learned counsel for the non-petitioner for the State submitted that he has already filed reply to the stay application as well as the writ petition but that is not on record. Learned counsel for non-petitioner has submitted that the writ petition should be dismissed as it has become in-fructuous in as much the petitioner as well as most of non-petitioners have already retired from service. More over the petitioner is also guilty of laches as he could not be allowed to challenge the seniority list of 1971 in the year 1974. It has further been submitted that serveral orders have been passed and they have not been challenged nor other officers have been made party, therefore, this writ petition could not proceed and should be dismissed. Learned counsel for the parties agreed that the only point in this case is whether the petitioner is entitled to any order in his favour in view of the fact that petitioner as well as most of non-petitioners have retired. No useful purpose would be served by discussing in detail about the question of seniority of non-petitioners vis-a vis petitioner as the petitioner has rightly pressed before me that he was senior to Shri G.S. Sonkhiya, who is junior to him in the department as he entered in the service on 14-5-1953. He was selected as Agricultural Extension Officer by the Public Service Commission on 24-7-1958. He was appointed as District Agricultural Officer vide order dated 13-6-1960 and he was shown in seniority list Annexure 21 at No. 21 whereas petitioner was shown in that seniority list at serial No. 4.

3. I have gone through the writ petition as well as its annexures submitted by the petitioner and also by non petitioner Shri Mathur along with reply of the stay application. The seniority of the petitioner could not be altered in 1971 vis-a-vis

Shri G.S. Sonkhiya and the petitioner should be treated as senior to Shri G. S. Sonkhiya. Since the objections to the seniority list of 1971 were in active consideration even in June, 1974, the petition can not be thrown away on ground of delay. The petitioner has also submitted that he was not afforded any opportunity of hearing before Shri Sonkhiya and others were shown senior to him. Be that as it may, in my opinion Shri G.S. Sonkhiya could not have been shown senior to the petitioner and, therefore, the State Govt. is directed to consider the case of the petitioner for promotion as if petitioner was senior to Shri G.S. Sonkhiya and after considering his case he should be given notional promotion if he is found suitable, from the date, Shri Sonkhiya was given promotion with all the consequential benefits flowing therefrom.

4. The writ petition is partly allowed as indicated above. The parties shall bear their own costs.