

Champalal Vs. State and ors

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Court : Rajasthan Jodhpur

Decided On : May-16-2014

Appellant : Champalal

Respondent : State and ors

Judgement :

S.B. Civil Writ Petition No.2715/2013 Champalal V/s State of Rajasthan and ors.
Order dt:

16. 5/2014 1/5 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

S.B. Civil Writ Petition No.2715/2013 Champalal V/s State of Rajasthan and ors.
Date of Order :::

16. h May, 2014 PRESENT HON'BLE Dr. JUSTICE VINEET KOTHARI Mr.Devesh
Borha, for the petitioners. Mr.B.L. Bhati, for the respondents. --- BY THE COURT:

1. The petitioners have filed the present writ petition against the termination of
their services on the post of Computer Instructor.

2. Both the learned counsels at bar submitted that the controversy involved in the
present writ petition is covered by the decision of this Court in the case of
Sandeep Kumar Babal Vs. State of Rajasthan & Ors. - S.B. Civil Writ Petition

No.1460/2013 decided on 14.5.2014 in which this Court held as under:

11. In the considered opinion of this Court, the present writ petition is misconceived and deserves dismissal. Merely because the petitioner was appointed S.B. Civil Writ Petition No.2715/2013 Champalal V/s State of Rajasthan and ors. Order dt:

16. 5/2014 2/5 as Teacher Grade III in the selection process held in pursuance to the Advertisement dated 20.06.2008 vide the order (Annex.P/1) dated 14.07.2010, which selection process was subject-matter of judicial scrutiny by this Court on account of some incorrect answers in the answer key in the examination held by the RPSC and the merit list has to be revised upon the correct answer being given effect to, to its logical end, it cannot be said that the present petitioner who was appointed as Teacher Grade III on 14.07.2010 purportedly on the basis of wrong answer given to that particular question under the previous merit list and whose services were terminated as Teacher Grade III on 17.03.2011 upon revision of merit list to give effect to the correct answer for that particular question, it cannot be said that the petitioner's irregular appointment on the basis of wrong answer deserves to be treated as a regular appointment so as to give him the benefit of continuity of the period of service under that appointment order (Annex.P/1) dated 14.07.2010.

12. On the other hand, the Division Bench of this Court by which judgment this Court sitting singly is undoubtedly bound, only subject to final decision of SLP by the Hon'ble Apex Court of course, the petitioner's earlier appointment was clearly liable to be terminated upon his name being not included in the revised merit list S.B. Civil Writ Petition No.2715/2013 Champalal V/s State of Rajasthan and ors. Order dt:

16. 5/2014 3/5 and that is what was done by the Director of the Sanskrit Education, Jaipur vide the order (Annex.P/3) dated 17.03.2011.

13. Luckily and incidentally, the petitioner in a fresh and different selection process, could be selected and secured appointment as Teacher Grade II, on a higher post and in the higher pay scale, and was so appointed vide the order

(Annex.P/8) dated 14.09.2012, but he cannot be permitted to claim the benefit of continuity of his past service as Teacher Grade III, which was for all purposes terminated vide the order (Annex.P/3) dated 17.03.2011, only subject to the decision of SLP by the Hon'ble Supreme Court. The two selection process in question have no connection whatsoever and the present writ petition is founded on a wholly misconceived notion that had the petitioner been continued in the post of Teacher Grade III, upon his irregular/illegal appointment on the basis of wrong answer also been upheld finally as per Hon'ble Supreme Court decision, which is awaited as of now and, therefore, he should be held entitled to the benefit of continuity of service, is a misconception, to say the least.

14. The new appointment in the fresh selection process as Teacher Grade II under order (Annex.P/8) dated 14.09.2012 of the present petitioner has no connection with the previous appointment as Teacher S.B. Civil Writ Petition No.2715/2013 Champalal V/s State of Rajasthan and ors. Order dt:

16. 5/2014 4/5 Grade III. During the probation period as Teacher Grade III, in which the petitioner was at time of his termination on 17.03.2011, no lien can be said to have been created in favour of the petitioner on the post of Teacher Grade III in pursuance of earlier appointment order (Annex.P/1) dated 14.07.2010. He was not even a regularly appointed Teacher Grade III and the very purpose of keeping a new appointee on probation for a period of two years is to assess not only his/her performance but the regularity of the appointment itself also. Since, the selection process in question became the subject-matter of the litigation and the judicial scrutiny, as aforesaid, the rights of the petitioner as Teacher Grade III may remains subject to that judicial scrutiny finally up to the Hon'ble Supreme Court, but that may not be of any consequence or benefit to the subsequent appointment of the petitioner as Teacher Grade II under a new and different selection process under order (Annex.P/8) dated 14.09.2012.

15. The appointment of the petitioner on the post of Teacher Grade II under the order (Annex.P/8) dated 14.09.2012 is not a promotion given to him from the post of Teacher Grade III in the present case. It is a fresh appointment in pursuance of a different selection process and as already stated above, the two different

selection process have no connection between them, S.B. Civil Writ Petition No.2715/2013 Champalal V/s State of Rajasthan and ors. Order dt:

16. 5/2014 5/5 which alone could furnish the basis for the relief claimed in the present writ petition, namely, of pay protection and continuity of service etc. No such fact situation is available here and consequently, the relief as claimed in the present writ petition cannot be given to the petitioners.

16. In view of above discussion, the writ petitions preferred by the petitioners are found to be devoid of any force and the same deserves to be dismissed.

17. The petitioners are dismissed accordingly. No costs. A copy of this order be sent to the concerned parties forthwith.. 3. Accordingly, the present writ petition is also dismissed in same terms. No order as to costs. A copy of this order be sent to the parties concerned forthwith. (Dr. VINEET KOTHARI), J.

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