

Dilip Singh Vs. State of Raj. and ors

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Court : Rajasthan Jodhpur

Decided On : Aug-28-2014

Appellant : Dilip Singh

Respondent : State of Raj. and ors

Advocate for Def. : Mr. Sudheer Tak

Advocate for Pet/Ap. : Mr. Pradeep Shah

Judgement :

S.B. CIVIL WRIT PETITION No.977/2009. Dilip Singh Vs. State of Rajasthan & Ors. Order dated 28/08/2014 1/7 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR. ::

ORDER

:: S.B. CIVIL WRIT PETITION No.977/2009. Dilip Singh Vs. State of Rajasthan & Ors. Date of Order ::::

28. h August, 2014. PRESENT HON'BLE Dr. JUSTICE VINEET KOTHARI
Appearance: Mr. Dilip Singh, petitioner present in person. Mr. D.K. Mathur, Addl. S.P., (T.C.) Jodhpur. Officer-in-charge. -- BY THE COURT:

1. The lawyers are observing strike which is contrary to various Supreme Court decisions. Names of Mr. Pradeep Shah and Sandeep Shah, counsel for the

petitioner and name of Mr. Sudheer Tak, counsel for the respondents are shown in the cause list.

2. Heard the petitioner and the Officer-in-Charge of the case. The case is set down for final hearing. S.B. CIVIL WRIT PETITION No.977/2009. Dilip Singh Vs. State of Rajasthan & Ors. Order dated 28/08/2014 2/7 3. The petitioners have filed this writ petition in this Court on 05.02.2009 claiming following relief(s): - It is, therefore, most respectfully prayed that this petition for writ in the nature of mandamus may kindly be allowed and by an appropriate writ, order or direction: a) the impugned seniority list dt.24.2.2005 (Annex.4) & 18.4.2006 (Annex.10) issued by the respondent department may kindly be quashed & set-aside to the extent they assign the petitioner seniority below the private respondents and one Sh. Lalit Kumar S/o Kemti Lal. b) the respondents may be directed to assign the correct seniority position to the petitioner in the impugned seniority list and the name of the petitioner may be shown senior to and over and above the name of private respondents. c) that a direction be issued to the respondents department that the petitioner may be considered senior to the private respondents while considering their case for promotion. d) any other appropriate order or direction which this Hon'ble Court deems fit and proper may kindly be passed in favour of the petitioner. e) Cost of the writ petition may kindly be awarded to the petitioner.

. S.B. CIVIL WRIT PETITION No.977/2009. Dilip Singh Vs. State of Rajasthan & Ors. Order dated 28/08/2014 3/7 4. After hearing both the parties, a coordinate bench of this Court has passed the following interim order on 13.09.2013, which reads as infra:- Heard learned counsel for the parties. In the instant writ petition, the petitioner, who is appointee of 13.10.1999, on the post of Sub- Inspector (Telecommunication), has questioned seniority assigned inter alia to Miss Neetu D/o Govind Ram above him, who is appointee of 6.9.2001. The respondents have not been able to clarify as to how the appointee of the year 2001 could have been placed in seniority list above the petitioner, who is appointee of the year 1999. Admit. Issue notice. Notices need not be issued to the respondents no.1 to 3 as they are already represented by their counsel. Issue notice to the respondents No.4 to 11 only, returnable on 03.10.2013. Notices may be filed in two sets. One set of notices be sent through registered AD post and another be given 'dasti' to

the learned counsel for the petitioner for service upon the respondents. Heard learned counsel for the parties on the stay petition. S.B. CIVIL WRIT PETITION No.977/2009. Dilip Singh Vs. State of Rajasthan & Ors. Order dated 28/08/2014 4/7 Mr. Sandeep Shah, learned counsel appearing for the petitioner submits that Miss Neetu, who has been placed above the petitioner in the seniority list wrong, has been sent for Promotion Cadre Course Training for the purpose of promotion to the post of Inspector (Telecommunication), however, the petitioner, a prior appointee than many of the persons, who are sent for training, has been deprived of the same. It is submitted that if the petitioner is not sent for the training, then, obviously, he will not acquire eligibility and shall not be considered for promotion to the post of Inspector (Telecommunication). In this view of the matter, the respondents are directed to send the petitioner for Promotion Cadre Course Training for the purpose of promotion to the post of Inspector (Telecommunication). It is further directed that one post of Inspector (Telecommunication) shall be kept vacant till further orders. The stay petition stands disposed of accordingly.. 5. Prima facie, it appears that the petitioner though appointed at prior point of time on 13.10.1999 was ranked junior to private respondent No.4, namely, Miss Neetu Chouhan D/o Govind Ram, who admittedly was appointed on 06.09.2001 and, therefore, finding this incongruity in the seniority, a coordinate S.B. CIVIL WRIT PETITION No.977/2009. Dilip Singh Vs. State of Rajasthan & Ors. Order dated 28/08/2014 5/7 bench of this Court directed the petitioner to be provisionally allowed for Promotion Cadre Course Training and also keep one post of Inspector (Telecommunication) vacant for him till further orders.

6. The petitioner has since been allowed to undergo the Promotion Cadre Course Training in pursuance of the interim orders of this Court. The petitioner who is present in person, submits that while his junior, the private respondents have been promoted to the post of Inspector (Telecommunication) ignoring the candidature of the petitioner who was appointed much prior to the private respondent No.4. The petitioner has not been given appointment to the next higher post although the post was kept vacant for him.

7. The Officer-in-Charge of the case is present and he sought to explain the situation as has been explained in the reply filed by the respondents.
8. In the facts and circumstances of the case, this Court considers it expedient that the representation filed by the petitioner is first decided by the competent authority of the respondent Department, namely, respondent No.3- Director Police (Telecommunication), Jaipur, who should hear the petitioner in person and if any such representation is pending with him, the same may be decided and if no such representation S.B. CIVIL WRIT PETITION No.977/2009. Dilip Singh Vs. State of Rajasthan & Ors. Order dated 28/08/2014 6/7 is pending, then, the petitioner will be at liberty to file fresh suitable representation before the said authority raising all his grievances and the points as raised in the present writ petition, who will pass speaking order on the various issues raised by the petitioner in this writ petition. It is only after a specific order is passed by the respondent Department with regard to his seniority and consideration of the case of the petitioner for promotion to the next higher post, that the Court may examine the validity of such order passed on such representation.
9. Accordingly, the present writ petition is disposed of with a liberty and direction to the petitioner to appear before the said authority i.e. respondent No.3- Director Police (Telecommunication), Jaipur in the first instance on 03.09.2014 and file appropriate representation raising all the issues sought to be raised by him in the present writ petition and the said respondent, Director Police (Telecommunication), Jaipur, is directed to decide the representation of the petitioner after giving an opportunity of hearing to the petitioner within a period of four weeks thereafter. If the grievances of the petitioner is found justified, appropriate relief may be granted to him at the end of the Director Police (Telecommunication) and if however, the petitioner is not entitled to the relief as claimed in the present writ petition or his representation, the appropriate and cogent S.B. CIVIL WRIT PETITION No.977/2009. Dilip Singh Vs. State of Rajasthan & Ors. Order dated 28/08/2014 7/7 reasons may be assigned by the said authority for refusing such relief to the petitioner. It is needless to add that, if an adverse order is passed against the petitioner, the petitioner will be free to assail the validity of the same by way of fresh writ petition. No order as to costs. A

copy of this order be sent to the concerned parties forthwith. (Dr. VINEET KOTHARI), J.

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