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Court : Rajasthan

Decided On : Aug-01-1988

Reported in : 1988WLN(UC)263

Judge : Ashok Kumar Mathur and; R.S. Verma, JJ.

Appeal No. : D.B. Civil Writ Petition No. 2042 of 1986

Appellant : Devi Ram

Respondent : Union of India (Uoi) and ors.

Disposition : Petition allowed

Judgement :

Ashok Kumar Mathur, J.

1. The petitioner by this writ petition has pray that he may be declared as quasi-permanent and confirmed on the of Mate-II on and from the date persons junior to him are so confirmed. Further prayed that he may be given promotion to the post of Mate-I w.e.3-9-1983 and he may be considered for further promotion to the post Tractor Driver w.e.f. 1-4-1982. He has also claimed the consequential bene arising there from. He further prayed that he may be given House Allowance from 3-9-1969 to 13-10-1985 and also cash earned leave for of period from 1979-80, 1980-81, 1981-82, 1982-83 and 1983-84.

2. The petitioner was an employee of the State Farm Corporation India Ltd. while working at the Central State Farm, Suratgarh, the service the petitiones were terminated, therefore, he filed S.B. Civil Writ Petition No. 401 of 1977 before this Court, challenging his removal from service. Court by the order dated 5-9-1984 quashed his order of termination declared that the petitioner shall be reinstated with all consequential bene After disposal of the writ petition the petitioner reported on duty 28-9-1984. He was reinstated on 16-10-1984, but he was not paid any or emoluments. Therefore, he filed a contempt petition which came registered as S.B. Civil Misc. Contempt Petition No. 195/1985. During pendency of this petition an order was passed on 18/28-10-1985 18/28-10-1985 directing he may be paid full back wages w.e.f. 3-2-1969 to 16-10-1984. It was also ordered that subsistence allowance paid during the termination may be adjusted against the arrears. Therefore, he was told that he must withdraw the contempt petition then alone the payment will be made and he accordingly withdrew the contempt petition and payment was made. The petitioner has again filed the present writ petition and prayed that consequential benefits arising from the judgment of this Court were not given to him. Therefore, he approached this Court by filing the present writ petition praying the aforesaid reliefs.

3. The petitioner submitted that he must be given all the benefits as were given to his juniors. He submitted that persons junior to him were promoted to the post of Mate-I and he has given the names of Jamil Khan, Govind Singh, Jamaluddin, Om Prakash and Pala Singh. He further submitted that persons junior to him like Jamil Khan, Govind Singh and Jamaluddin were further promoted to the post of Tractor Driver w.e.f. 1-4-1982. He has also submitted that he has still not been made quasi permanent and has not been confirmed on the post held by him. He has also prayed that gifts which were given to other employees namely, wrist watch, 2 sets of Uniforms and blanket, were also denied to him. The petitioner also stands denied cash payment in respect of leave earned in the years 1979-80, 1980-81, 1981-82, 1982-83 and 1983-84.

4. A return has been filed by the respondents and it has been submitted that the petitioner does not possess the requisite experience in regard to the operation of the machinery, therefore, he could not be promoted as Mate-I. It is further

submitted that Sarva Shri Jamil Khan, Govind Singh and Jamaluddin were promoted in the year 1973 as Mate-1 because they were having Tractor driving licence, where as the petitioner has never produced the Tractor driving licence. Therefore, he could not be considered for promotion to the post of Mate-I. Sarva Shri Om Prakash and Pala Singh were appointed as Bin Keepers in Stores because the post of Mate-II was abolished and, therefore, it was not possible for the respondents to give this post to these persons and they were absorbed as Bin Keepers. It was also submitted that the channel of promotion from Mate-II is Mate-I and not the tractor driver.

5. So far as non-payment of House Rent Allowance is concerned, it was submitted that since the petitioner has vacated the accommodation at the time of his removal from service and left the quarter without any intimation. It was further submitted that the House Rent Allowance is payable to the employees when the accommodation is not available with the respondents. Therefore, the petitioner is not entitled for any House Rent Allowance.

6. So far as encashment of leave is concerned, a vague reply was filed that if the petitioner is entitled to encashment of earned leave then he can approach the proper forum for seeking his redress.

7. As regards the Uniform, wrist watch and blanket it was submitted that the petitioner has not disclosed the names of such employees, who have been granted such gifts.

8. We have heard both the learned Counsel for the parties. It is unfortunate that the respondent Corporation is taking an wholly unwarranted approach and forcing the petitioner to this litigation; The necessary corollary after the judgment of this Court was that the petitioner should have been given all the benefits which were due to him as a good employer. In normal course he should have been given all the benefits which were given to the persons junior to him. In the present case, it is an admitted position that some persons were promoted to the post of Mate-I and then they were riven promotion to the post of tractor driver and some others were given the posts of Bin Keeper on account of abolition of post of Mate-II.

9. The petitioner in his rejoinder has pointed out that he holds a tractor driving licence. The respondents have admitted that persons junior to the petitioner were promoted to the post of Mate I and then tractor driver and those who could not be accommodated as tractor driver have been accommodated on the post of Bin Keeper. In these circumstances, the petitioner is entitled to the same treatment because the result of setting aside of his removal is that he stood reinstated from the date of his removal from service and he is entitled to all consequential benefits as were given to his juniors. Thus, the clock has set back for the petitioner. In these circumstance we direct that the petitioner should be given same treatment as was given to Jamil Khan, Govind Singh, Jamaluddin by promoting him in the year 1973 as Mate-I The petitioner has produced a photo copy of the driving licence and therefore, he shall be given promotion to the post of tractor drive from the date it was given to Jamil Khan, Govind Singh and Jamaluddin. He shall be given all consequential benefits arising there from in terms of fixation and arrears. As the petitioner holds a driving licence, therefore, it is not necessary to direct the respondents to give the petitioner benefit as was given to Om Prakash and Pala Singh as Bin Keepers.

10. Now, coming to the question of leave encashment. Both the learned Counsel are unable to tell us as to what are the rules governing he service conditions of the employees serving in the State Farms Corporation If the leave encashment provision exists in the Rules, then the same shall also be given to the petitioner.

11. So far as the grant of House Rent Allowance is concerned we are not inclined to grant him any House Rent Allowance. As per the return the House Rent Allowance is payable to the employees only when the respondents have no accommodation. The petitioner was removed from service and he left the Corporation premises without any intimation, therefore he cannot be granted House Rent Allowance for the period in question

12. Lastly as regards the fringe benefits given to employees like wrist watch, blankets etc., are concerned, the allegation of the petitioner is vague and more-over, it is a gift which cannot be enforced by directing there pendents to give the same gifts to the petitioner in this writ jurisdiction

13. In the result, the writ petition is allowed in part and the respondents are directed to promote the petitioner as Mate-I from the date Jamil Khan Govind Singh and Jamaluddin were given and tractor driver from the date the aforesaid persons were promoted to the post of tractor driver. The petitioner shall be given all consequential benefits. The petitioner should also be given the leave encashment benefit if it is admissible under the Rules. This will be done within a period of six months from today.

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