

Pushpendra Kumar Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Apr-02-1990

Reported in : 1990(1)WLN358

Judge : K.S. Lodha, J.

Appeal No. : S.B. Civil Writ Petition No. 2986 of 1987

Appellant : Pushpendra Kumar

Respondent : State of Rajasthan and ors.

Disposition : Petition allowed

Judgement :

K.S. Lodha, J.

1. In S.B. Civil Writ Petition No. 1558 of 1983, S.K. Ghosh v. State of Rajasthan and Ors. along with 7 other similar writ petitions decided on 16-11-1984 by a learned Judge of this Court, the following directions' inter alia, had been given to the State of Rajasthan and the High Court of Judicature for Rajasthan:

A cadre of Private Secretaries of Chief Justice/Judge of the High Court consisting of posts, equal in number to the posts of Chief Justice and Judges of the High Court, carrying Pay Scale, Allowances and Status at par with the Pay Scale. Allowances and Status of Private Secretaries to Commissioner and Secretaries to

Government shall be constituted with effect from the commencement of financial year following the year of institution of these writ petitions (i.e. with effect from April 1, 1984)

Since these directions have not been carried out in full, the present writ petition has been filed by Shri Pushpendra Kumar, Private Secretary-cum-Judgment writer for directing the State Government and the High Court to comply with the aforesaid directions.

2. It is now not in dispute before me that in compliance with the said judgment, the High Court has only issued some directions but not framed the Rules for governing the Service Conditions of the Private Secretaries working in the Rajasthan High Court including the provisions of post equivalent to the post of Deputy Secretary. However, it is urged by the learned Counsel for the petitioner that the Private Secretaries to the Judges of the High Court have already been provided with the same Pay Scales and Allowances as are applicable to the Secretaries to the Commissioner and the Secretaries to the Government. His grievance, however, is that the Private Secretaries in the High Court have not been given the same status as the Private Secretaries attached to the Commissioners and the Secretaries to the Government enjoin and he also urged that by the term 'Status', he does not only mean the status in the service but it must also include the same facilities and privileges, which are made available to the Private Secretaries to Commissioners¹ and Secretaries to the Government, e.g. separate room, separate telephone and the facilities of Class-IV servant.

3. Mr. B.L. Purohit appearing for the High Court has stated at the bar that the necessary amendments in the Conditions of the Staff Rules and the Schedule I and II appended thereto have already been carried out earlier the orders of Hon'ble the Chief Justice dated 24-3-1990 and the Private Secretaries in the High Court have been given the same status as Private Secretaries to the Commissioners and the Secretaries to the Government. Therefore, so far as the status of service as such, is concerned, this must be deemed to have been provided in accordance with the directions given in S.K Ghosh's case (supra).

4. So far as the question of facilities appertaining to the Private Secretaries to the Commissioner and Secretaries to the Government are concerned, it has been asserted on behalf of the petitioner that the Private Secretaries to the Commissioners and Secretaries to the Government are provided separate rooms, telephones (Extension) and a peon but Mr. Dave appearing for the State has stated that it is not so and it is not necessary that every Private Secretary to the Commissioner and the Secretary to the Government must be provided with a separate room, telephone (Extension) and Class IV Servant. He has, however, not been able to deny the fact that the Private Secretaries to the Commissioners and the Secretaries to the Government generally have a separate room, telephone (Extension) of which goes to the office or chambers of Commissioner or the Secretary concerned. It is also not disputed before me by the learned Counsel appearing for the High Court or the State Government that in the Jaipur Bench of this very High Court, the Private Secretaries to the Judges generally have their separate room, telephone connection (Extension). It is also brought to my notice by Shri Purohit appearing for the High Court that the High Court has already prepared a proposal for providing 6-7 cubicals with wooden partition in the hall, three cubicals in the gallery and other cubicals in another gallery near the Statistical Section may also be made available to the Private Secretaries. However, that proposal could not be sent to the Government as Hon'ble the Chief Justice was aware of the financial stringencies and the matter has been deferred for the next year.

5. Having regard to the circumstances, I am of the opinion that in order to give proper status to the Private Secretaries in the real sense of the term, these facilities should be made available to them. Mr. Dave, learned Additional Government Advocate states that if the proposals are sent by the High Court, they would be considered favourably. It will not be out of place to mention that at present, all the Private Secretaries of the judges at Jodhpur sit in a common room where they have to type-out their judgments and other matters and keep their files etc, in cubbord. Such a situation may sometimes lead to very serious consequences as the secrecy of the judgments is put in jeopardy and, therefore, providing separate room and/or cubicals to the Private Secretaries to the Judges cannot be over emphasised. Similarly, these Private Secretaries have to look after

various personal affairs and matters of the Judges and have to contact so many people and, therefore, the facility of telephone to them is also a bare necessity. Such necessities have to be provided even if there is some strain on finances of the State but they should not be deferred or refused on account of such financial stringencies and some funds have to be made available for this purpose. Mr. Dave brought to my notice a case reported in : (1989)IILLJ506SC . Supreme Court Employees Welfars Association v. Union of India and Another and urged that the State Government cannot be given a direction to provide these facilities. I am not in agreement with this submission of the learned Counsel for the State and in my opinion, this authority also supports the view that when a proposal is sent by the Chief Justice of a High Court, it cannot be ordinarily turned down except as provided in Article 146 of the Constitution of India.

6. In these circumstances, I am of the opinion that the High Court may move proposal to the State Government for providing separate rooms to the Private Secretaries to the Judges along with the facility of telephone (Extension) within two months and the State Government may provide necessary finances within next four months.

7. The other contention raised by the learned Counsel for the petitioner was with regard to the channel of promotions of the private Secretaries to Judges equal to the channel of promotion to the Private Secretaries to Commissioners and the Secretaries to the State Government. Mr. Purohit has already stated that the Rules have already been amended in this respect and the Deputy Registrars of the High Court have been equated with the Deputy Secretaries of the State Government in State Secretariat Services. Mr. Singhvi, now, therefore, does not challenge this position but states that these amendments must be with effect from April 1, 1984 as has been directed by the learned Single Judge in S.K. Ghosh's case (supra). Such a direction is there and, therefore, these amendments will have to be made retrospective with effect from April 1, 1984.

8. No other point has been urged by the learned Counsel for the parties.

9. In this view of the matter, the writ petition is allowed as indicated above.

