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Court : Rajasthan

Decided On : Oct-23-1991

Reported in : 1991(2)WLN350

Judge : R.S. Verma, J.

Appeal No. : S.B. Civil Writ Petition Nos. 1490, 1491 and 1492 of 1985

Appellant : Sohanlal

Respondent : The State and anr.

Judgement :

R.S. Verma, J.

1. All these three writ petitions raise identical questions of fact and law and by common consent have been heard together and are being disposed of by a common order

2. I may give in outline facts of S.B. Civil Writ Petition No. 1490/85-Sohan Lal v. The State and Anr. The facts in other cases are almost similar. The petitioner passed his Higher Secondary Examination and obtained a Diploma in Tailoring and Cutting from the Commercial Tailors Corporation Private Limited (In-cooperative Commercial Tailoring College), Bombay. This Diploma was recognised by the Government of Rajasthan vide Anx. 5. The petitioner was

appointed as Teacher by Panchayat Samiti, Pratapgarh by an order dated 14-9-83. This appointment was regularised by order Anx. 2 dated 17-11-83. Eventually, Vikas Adhikari, Panchayat Samiti, Pratapgarh terminated the services of the petitioner with effect from 18-5-83 by order Anx. 4 dated 17-6-85. It was stated, inter alia, in the order that the petitioner did not possess requisite qualifications, namely, B.S.T.C. The petitioner filed this writ petition challenging the termination of his services. He also moved a stay petition wherein on 1-8-85, an interim direction was given to the respondent 'to keep one vacancy of the Craft Teacher (Tailoring) grade-III, if vacancies are available'. This interim stay order was vacated by this Court on 14-2-86.3.

3. The learned Counsel for the petitioner urges that the order terminating the services of the petitioner is invalid on two principal counts and hence is not sustainable in law. It is submitted that there could have been no retrospective termination of the services with effect from 18-5-83 by passing order Anx. 4 dated 17-6-85. The second contention is that the Vikas Adhikari was wrong in saying that the petitioner did not possess requisite qualifications. It is urged that this Court in *Shakti Raj Singh v. State of Raj. and Anr. and other identical writ Petitions*) decided on 16-1-87 has held that the rules do not specify the nature of the training which a candidate for the posts of teacher in the tailoring grade is required to undergo and the only qualification was 'Metric trained'. It is urged that in the aforesaid bunch cases that this Court took the categorical view that a candidate was not required to be BSTC. but was eligible if he possessed an equivalent diploma. It is urged on the aforesaid premises that the order terminating the services of the petitioner is bad and deserves to be quashed and it may be declared that the petitioner continues to be in service and is entitled to the arrears of emoluments upto date.

4. The writ petition is opposed by Mr. S.G. Ojha, on behalf of the State of Rajasthan as also by Mr. N.D. Khan, on behalf of the Panchayat Samiti. The learned Counsel for the respondents have not. been able to show how an order could be passed terminating the services of the petitioner retrospectively, when the services of the petitioner have been regularised earlier. They have also not been able to satisfy me as to how the petitioner could be said to be untrained

when this Court had already held that the Diploma in Tailoring recognised by the Government was equivalent to the training required for the post, of teacher.

5. A large number of contentions have been raised in the writ petition but I need not enter into them because in my opinion the writ petition could be disposed of on the aforesaid two short grounds.

6. The orders terminating the services of the petitioner being bad in law, is quashed. The petitioner will be deemed to be in service till date inspite of the aforesaid order of termination of service and shall be entitled to get his arrears of emoluments till today. The respondents should pay the salary of the petitioner within a period of three months from today, failing which the emoluments shall carry interest at the rate of 24% per annum. In case supernumerary post is to be created for keeping the petitioner, such a post should be created. In the facts and circumstances of the case, the parties shall bear their own costs.

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