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Court : Rajasthan

Decided On : Feb-19-1992

Reported in : 1992(1)WLN223

Judge : Rajesh Balia, J.

Appeal No. : S.B. Civil Writ Petition No. 1120 of 1982

Appellant : Mohan Singh

Respondent : State

Judgement :

Rajesh Balia, J.

1. Petitioner applied for the appointment on the post of Physical Training Teacher in response to an advertisement issued under the Rajasthan Subordinate Education Service Rules, 1971 and he was duly selected and his name found place at S. No. 17 in the merit list. Petitioner having come to know that a person next below him has been offered appointment order was sent on a totally wrong address to village Charia instead-of village Butia in District Churu of which he was resident. He, therefore, made a representation to the respondents for giving him appointment on the post of Physical Training Teacher as he was duly selected and he was also in the merit above those who were given appointment. The petitioner was informed by letter dated 11.5.1982 that presently there being no vacancy, he

cannot be offered appointment However, he will be given appointment on any vacancy in future. After serving a notice for demand of justice, this writ petition was filed on 29.6.1982.

2. No reply has been filed so far by the State.

3. The glaring fact which appears on record from the documents eminating from the respondents themselves is that the petitioner was duly selected and while persons in lower merit was given appointment, he has not been given appointment and this mistake was even realised when Annex. 5 dt. 11.5.82 was issued and petitioner was assured that he will be given appointment as soon as vacancies are available. From the proceedings of the second stay application, it appears that petitioner was later on given appointment and his services were brought to an end on 14.5.83. When the petitioner filed second stay petition, notices were issued to the respondents and statement was made on 10.6.1983 that the petitioner has been reinstated in service. Thus, from the record it appears that the petitioner has ultimately been given appointment in pursuance of the selections made in 1980. In this view of the matter, the relief for giving appointment stands already granted to the petitioner. Since petitioner was given appointment at a later date notwithstanding the fact, that person lower in merit was offered appointment prior to him and his appointment was delayed for no fault on his part, I deem it just and proper to direct that the petitioner's appointment for the purposes of seniority will be taken to be with effect from the date when a person lower in merit in the merit-list dated 22.10.1980 was appointed.

4. With the aforesaid observations, the petition stands disposed off.

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