

Rajendra Pathak and anr. Vs. State of Raj. and ors.

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Court : Rajasthan

Decided On : Mar-17-1997

Reported in : 1997WLC(Raj)UC635; 1997(1)WLN395

Judge : J.C. Verma, J.

Appeal No. : S.B. Civil Writ Petition Nos. 927 and 942 of 1986

Appellant : Rajendra Pathak and anr.

Respondent : State of Raj. and ors.

Judgement :

J.C. Verma, J.

1. These writ petitions are being decided by this common order. The facts are being taken from S.B. Civil Writ Petition No. 927/86.

2. It is alleged in the writ petition that the Registrar, Rajasthan Civil Services Appellate Tribunal had invited applications for filling up the posts of Stenographers in the pay-scale of Rs. 625-1120. The petitioners who were registered by the Employment Exchange were ultimately selected and appointed initially for a period of one month till the availability of the candidates by the Rajasthan Public Service Commission. Copy of the order of appointment is attached as Annex. 1 with the writ petition. However, the appointment was extended vide letters dated 5.1.85

and 23.5.85 (Annex. 2 and 3). The petitioner was informed vide Annex. 4 dated 23.4.86 to supply the information with regard to their qualification acquired by them. The petitioners had invited the attention of the respondents, in their representation, copy of which is attached as Annex. 5, the effect that the amendment has been incorporated in Rajasthan Subordinate Offices Ministerial Staff Rules, 1957 vide notification dated 23.1.1985 where by a proviso 7-A was added to Rule. 7(1) of the said Rules of 1957 and had prayed that because of the reasons that they were appointed prior to 31.12.1984, the petitioners should also be meted out with same treatment and a special test be held for appointing them on regular basis after passing the said 'test. The request of the petitioners was repeated again by the reminders with a prayer that they should be allowed to continue in service. The petitioner was served with order dated 3.5.86 where by two other persons were appointed by way of selection made by RPSC. It was mentioned in impugned order Annex. 7 dt. 3.5.86 that the services of the petitioners would stand because of joining of the incumbents duly selected by the RPSC. The petitioners have, challenged the action of the respondents being violative and discriminatory by giving examples of certain other similarly situated appointee i.e. Om Prakash Choudhary, an employee of Technical Education Department, who was similarly removed and on his filing an appeal before the Rajasthan Civil Service Appellate Tribunal, on the aforesaid amendment in rules, mentioned above, it was held that said Sh. Om Prakash Choudhary was entitled to another chance of passing the test as per amended rules. It is submitted by the petitioners that despite such a benefit given by the Appellate Tribunal, respondents had not held any test so far as the petitioners are concerned.

3. It is alleged by the petitioners, which is not controverted, that writ-petitioners in both the writ petitions have now qualified the Stenography examination vide certificate dated 29.3.89 issued by the State of Rajasthan, Department of Language, Jaipur and right from their initial appointment till the date of passing of the examination as per certificate of the Language department and even upto date, there is no complaint against the petitioners.

4. It is admitted at the bar that the petitioners are still continuing in service since Nov. 1984. Even though no reply has been filed by the respondents, but in reply

filed in the stay application, it has not been alleged that the conduct or the work of the petitioners was not satisfactory.

5. Without going into the other aspect of the matter, and because of the reasons that the petitioners are still in service for the last 13 years and there being no complaint against them in regard to their work or conduct, it shall be appropriate to allow the writ petitions with the direction to the respondents that the petitioners, who had also passed the Stenography Examination after filing the writ petition, on the dates mentioned in certificates submitted by them, they should be allowed to continue on the posts, they are holding. It is agreed by the counsel for the petitioners that if any regular benefit is to be given to the petitioners, there will not be any objection, if that benefit is conferred on them from the date of issuance of Stenography certificate by the. Language Department. No order as to costs.

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