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Court : Rajasthan

Decided On : Apr-05-1989

Reported in : 1989(2)WLN270

Judge : Navin Chandra Sharma, J.

Appeal No. : S.B. Civil Second Appeal No. 97 of 1978

Appellant : Murlidhar

Respondent : State of Rajasthan

Disposition : Appeal dismissed

Judgement :

Navin Chandra Sharma, J.

1. Plaintiff Murlidhar claimed for a declaration to the effect that he was compositor in Government Press of the former Bikaner State with effect from February 1, 1949 in the grade of Rs. 50 2-70 and was entitled to get salary in that grade He claimed a total amount of Rs 3936.88 as arrears of salary as detailed in the schedule annexed to the plaint.

2. The plaintiff has failed in both the courts below and has come in second appeal to this Court.

3. I have heard the learned Counsels appearing for the parties. It is not in dispute that plaintiff Murlidhar was appointed as Compositor in Government Press of the former Bikaner State on August 24, 1948 as a substitute in place of Maganlal. He was confirmed on this post on November 1, 1948. His salary was Rs. 38/- per month. The amount of dearness allowance was Rs 13/- and Rs. 14/- was paid as grain allowance. On February 1, 1949 on the resignation by one Chandumal Compositor, it was alleged that a vacancy fell and the plaintiff was transferred as compositor in place of Chandumal in the grade of Rs. 50-2-70 The former Bikaner state allowed additional pay at the flat rate of Rs. 5/-per month from August 15, 1948. The plaintiff claimed that he was entitled to the monthly pay of Rs 50/-with effect from February 1,1949 when he was transferred on the post of compositor in the vacancy caused by the resignation of Chandumal. An amount of Rs. 3326 28 was claimed as arrears of pay at due against the State of Rajasthan.

4. So far as the defendant is concerned, it admitted the appointment of the plaintiff on the post of Compositor on August 24, 1940 and his confirmation on November 1, 1948. It was also admitted that on the resignation of Chandumal the plaintiff was posted in his place but it had been dented that he was given the grade of Rs. 50-2-70. Later on former Bikaner State under a covenant merged in the United State of Rajasthan and the fixation of pay of the plaintiff was made in accordance with Rules.

5. The crucial question in the case is whether the plaintiff was appointed in the grade of Rs. 50-2-70 as Compositor in the former Bikaner State in the vacancy caused by the resignation of Chandumal. It is not in dispute that right upto the date the plaintiff was confirmed on the post of Compositor with effect from November 1, 1948; he was getting the basis pay of Rs. 38/- per month. It was not alleged by the plaintiff that when he was appointed as compositor on August 24, 1948 or when he was confirmed on November 1, 1948 there was any time scale of pay in which he was appointed. The plaintiff has only pleaded that with effect from February 1, 1949 when he was transferred on the very same post of Compositor in the vacancy caused by the resignation of Chandamal that he was given the grade of Rs. 50-2-70-The plaintiff has not produced any order by which he was given the grade of Rs. 50-2-70 while he was posted by transfer on that very post of

compositor on the resignation of Chandumal. It was transfer or posting order which could have shown that the plaintiff was given the grade alleged by him. It is very pertinent to note that in the year 1956, the plaintiff had himself given an option to the Government of Rajasthan that he elects the revised scale of Rs. 40-2-50-EB-2-70 with effect from 1st March, 1956. Had the plaintiff's pay in the former Bikaner State would have been in the grade of Rs. 50-2-70, he would have opted the grade of Rs. 50-3-65 EB-3-80 provided for Compositors in the Government Press Bikaner and Udaipur by the Rajasthan Civil Services (Rationalisation of Pay Scales) Rules and Schedules, 1956.

6. On December 6, 1949 a Government was entered into between the Rules of various princely State including the Ruler of Bikaner. Article 16 of the Covenant provided that the United State of Rajasthan here by gurantees either the continuance in service of the permanent members of the public services of the former Rajasthan State and each of the new Covenant states on conditions which will not be less advantageous than those on which they were serving on November 1, 1948 or the payment of reasonable compensation or retirement on proportionate pension. As already stated, the plaintiff has filed to establish that he was appointed or posted in the grade Rs. 50 2-70 as a compositor in former Bikaner State with effect from February 1, 1949. As a matter of fact, the plaintiff was only getting, even according to hum, a salary of Rs 43/- only in February 1949. Had he been in the grade of Rs. 50-2-70 in former Bikaner State, his basic pay could never have been Rs. 43/- and he would never have opted the revised scale in the grade of Rs. 40-1-50-EB-2-70 with effect from 1st March, 1956. The plaintiff wants to take advantage of some statements like Ex. A-15 and A-16 which are at stated to be extracts from the bills of Government Press, Bikaner of December, 1947 & February, 1946 and also of October, 1949. The Bill No. 730 dated 2510-1949 would go to show that the plaintiff's pay was only Rs. 30/-. The Bill No. 1279 dated 19-11-1948 would go to show that even the basic pay of Chandumal was only Rs. 48/-. Had there been the grade of Rs. 50-2-70 in former Bikaner State neither Chandumal nor the plaintiff would have been drawing less than Rs. 50/- as pay. These extracts seem to have been manipulated and reveal inconsistant and contrary positions.

7. After the formation of Rajasthan, the Rajasthan Civil Services (Unification of Pay Scales) Rules 1950 came into force. These Rules would go to show that in relation to Compositors, three grade were created. These grades were:

(1) Grade-I--50-3-60-EB-3-80

(2) Grade-H-40-2-50-EB-2-60

(3) Grade--III25-1-80

It may be mentioned that Grade-III was applicable only to Apprentices and trainees. The proper grade applicable to the plaintiff was 40-2-5-2-60 and he was fixed in this grade at Rs. 46/- as would appear from the extracts of his service Book Ex. A-12. There was re-fixation of his pay when the Raj. Civil Services (Rationalisation of Pay Scale) Rules, 1956 came into force and an these Rules for compositors of Printing Press at Bikaner and Udaipur, the Grade fixed was Rs. 60-4-80-5-100-EB-5-130. The plaintiff was refixed in this grade as is clear from the extract of his service book Ex. A-12 and had been paid according to these fixations.

8. Since the plaintiff failed to establish that he was appointed as Compositor in the Former State of Bikaner on February 1,1949 on account of the registration of Chandumal in the grade of Rs. 50-2-70, his suit was rightly thrown out by both the courts below.

9. This second appeal has no merit in it and it is here by dismissed! with costs to the respondents.

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