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Court : Rajasthan

Decided On : Feb-13-1998

Reported in : 1998(2)WLC53; 1998(1)WLN151

Judge : N.L. Tibrewal, J.

Appeal No. : S.B. Civil Writ Petition No. 3377 of 1997

Appellant : Naresh Kumar Rajput and ors.

Respondent : State of Rajasthan and anr.

Disposition : Petition allowed

Judgement :

N.L. Tibrewal, J.

1. This batch of writ petitions involve identical questions of facts and law and as such, they may be disposed of jointly by a common judgment.

2. The principal controversy involved in the petitions relates to interpretation of Notification dated. 11th August. 1995. made by the Governor of Rajasthan in exercise of power under Article 309 of the Constitution of India making amendment in Rule-4 and Rule 11 of the Rajasthan Slate and Subordinate Services (Direct Recruitment by a Combined Competitive Examinations) Rules. 1962 (hereinafter to be referred to as 'the Rules of 1962'), particularly new proviso

inserted providing one more chance to a candidate.

3. After the Rules of 1962 came into force, direct recruitment to the posts in State and Subordinate Services mentioned respectively in Schedule-I and Schedule-II are governed and made by a combined competitive examination to be conducted by the Rajasthan Public Service Commission (for short 'The Commission'). Rule-11 (1) describes number of chances which a candidate can avail. Rule 1 (1), as on August 11, 1995, when impugned Notification came to be issued was as under:

11. Admission to the examination: (1) The number of chances which a candidate, except in the case of candidates belonging to the Schedule Castes or Scheduled Tribes, appearing at any of these examinations can avail of shall be restricted to 'four' excluding the chances which he has already availed of at examinations or selection (held before the promulgation of these Rules,) for direct recruitment to posts specified in Schedule I or Schedule II, as the case may be;

Provided that a candidate who has already availed four chances before the change in syllabus and scheme of the examination vide notification No. F. 5 (1) DOP/A-11/92 dated, 3rd February, 1993 and who is otherwise eligible shall be permitted one more chance at any of the examinations to be held after the above mentioned notification.

4. The proviso to Rule 1 (1) was inserted vide Notification No. F (a) DOP/A-II-91 dated, 15.5.1993. The object of adding this proviso was to give one more chance to a candidate who had already availed four chances before the change in syllabus and scheme of the examination on. 3rd February 1993. In other words, a candidate, who had availed all the four changes was given one more chance to appear in the examination according to the new syllabus and scheme of the examination changed by Notification dated, 3rd February. 1993.

5. Notification dated, August 11, 1995. which is subject matter of interpretation is reproduced in extension as under:

Department of Personnel (A-II) Notification

Jaipur, August 11. 1995

G.S.R. 48: In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Rajasthan hereby makes the following amendment in the Rajasthan State and Subordinate Services (Direct Recruitment by Combined Competitive Examinations) Rules, 1962, namely:

Amendment

In the said Rules:

(1) Amendment in Rule 4-The condition No. (v) mentioned in such Rule (2) of Rule 4 shall be deleted.

(2) Amendment in Rule 11-: After the existing proviso to Sub-rule (1) of Rule 11, the following new proviso shall be added namely:

Provided further that a candidate who has already availed four chances under sub Rule (1) or the additional chance under proviso to Sub-rule (1) and who is otherwise eligible shall be allowed one more chance at any of the examinations to be held after this notifications.

6. Contention of the petitioners is that they have availed four chances by appearing in examinations prior to Notification dated 11.8.1995, but after the said Notification they are entitled to get one more chance on its plain reading. It is contended on their behalf that internal construction of the Notification leads to no other interpretation, as such, the cardinal rule of construction of statute should be applied by giving to the words their ordinary, natural and grammatical meaning. It was further contended that object of the Notification is to provide one more chance to the candidates who have already availed four chances as such, it needs to be given beneficial interpretation. If by plain reading of the Notification candidates who have availed four chances of appearing in the examinations are entitled to get one more chance, the full effect must be given to it. Any other interpretation as suggested on behalf of the respondents, contended on behalf of the petitioners, would make the Notification unconstitutional being violative of Articles 14 and 16 of the Constitution of India. On the other hand, Mr. S.N. Kumawat, learned Counsel appearing for the R.P.S.C., contended that benefit of one more chance as per

Notification dated. 11.8.1995 is available to those candidates who have already availed four chances before the change in syllabus and scheme of the examination vide Notification No. F. 5 (1) DOP/A-II/92 dated-3rd February 1993 and second proviso inserted by Notification dated, 11.8.1995 is to be read subject to the first proviso which was added on 15.5.1993.

7. After giving careful and anxious consideration to rival submissions. I find much force in the contentions made on behalf of the petitioners.

8. The cardinal rule of construction of the statute is to read the statute literally i. e. by giving to the words their ordinary, natural and grammatical meaning if the words used and clear. In other words, if on plain reading of the Notification, a candidate who has already availed four chances prior to it is entitled to get one more chance as per the Notification, the full effect must be given to it. Otherwise also, the Notification is aimed to provide one more chance to the candidates, as such it should be given beneficial interpretation in such a manner that benefit can be availed by more and more persons instead of giving a narrow interpretation denying benefit to some. Reference in this connection be made to the following observation from 'Maxwell on The Interpretation of Statutes' (12th Edition Page-29):

Where the language is plain and admits of but one meaning, the task of interpretation can hardly be said to arise. 'The decision in this case, 'said Lord Morris of Borth-Gest in a revenue case, 'calls for a full and fair application of particular statutory language to particular facts as found, the desirability or the undesirability of one conclusion as compared with another cannot furnish a guide in reaching a decision. 'Where, by the use of clear and unequivocal language capable of only one meaning, anything is enacted by the legislature, it must be enacted by the legislature, it must be enforced however harsh or absurd or contrary to common sense the result may be. The interpretation of a statute is not to be collected from any notions which may be entertained by the court as to what is just and expedient; words are not to be construed, contrary to their meaning, as embracing or excluding cases merely because no good reason appears why they should not be embraced or excluded. The duty of the court is to expound the law

as it stands, and to 'leave the remedy (if one be resolved upon) to others.

9. In Jugal Kishore Saraf v. Raw Cotton Co. Ltd. AIR 1955 S.C. 376, the law relating to interpretation of statute has been defined as under:

The cardinal rule of construction of statutes is to read the statutes literally, that is, by giving to the words their ordinary, natural and grammatical meaning. If, however, such a reading leads to absurdity and the words are susceptible of another meaning, the Court may adopt the same. But if no such alternative construction is possible, the court must adopt the ordinary rule of literal interpretation. In the present case, the literal construction leads to no apparent absurdity and therefore, there can be no compelling reason for departing from that golden rule of construction.

10. In S.A. Venkataraman v. The State : 1958 CriLJ254 , similar view has been reiterated thus:

In construing the provisions of a statute it is essential for a Court, in the first instance, to give effect to the natural meaning of the words used therein, if those words are clear enough. It is only in the case of any ambiguity that a Court is entitled to ascertain the intention of the legislature by construing the provisions of the statute as a whole and taking into consideration other matters and the circumstances which led to the enactment of the statute.

11. In Nelson Motifs v. Union of India and Anr. : (1992)IILLJ744SC , it is observed that, 'if the words of a statute are clear and free from any vagueness and are therefore, reasonably susceptible to only one meaning, it must be construed by giving effect to that meaning irrespective of consequences.'

12. In Municipal Corporation of Greater Bombay v. Mafat Lal Industries and Ors. : [1996]2SCR1015 , it has been held that 'the words must be given its natural meaning and must be understood in its ordinary and popular sense and each word must have its play. Natural and ordinary meaning of the words should not be departed from unless it is shown that the context in which the words are used require different meaning.'

13. Applying the above rule relating to interpretation of a statute, the Notification dated 11.8.1995 may be examined. The natural and plain meaning of the words of the Notification leads to only one interpretation which is that a candidate who is otherwise eligible, shall be allowed one more chance in the examinations to be held after the Notification, even he had availed four chances under Sub-rule (1) or an additional chance under proviso to Sub-rule (1). If natural, literal and plain meaning to the words deployed in the Notification is given, it is susceptible to no other interpretation. Further, in that instant case, the literal construction of the Notification does not lead to any absurdity to depart from the golden rule of construction. The contention of Shri Kumawat that benefit is available to those candidates who have availed four chances prior to the change in syllabus and scheme vide Notification dated, 3rd February 1993 and an additional chance under proviso to Sub-rule (1) which was inserted vide Notification dated, 15.5.1993, cannot be accepted, as such, interpretation runs counter to the plain language used in the Notification. If this interpretation is given, a candidate who has availed four chances before the change in syllabus and scheme of the examination vide notification dated, 3rd February 1993 and one chance as per the proviso inserted vide Notification dated, 15.5.1993. shall be entitled to get one more chance i. e. sixth chance, while a candidate who availed three chances before the change in syllabus and scheme and one more chance as per his entitlement under Sub-rule (1) after the change in syllabus would not be entitled to get one more chance i. e. the 5th chance even. In my view, such interpretation would make the Notification unconstitutional as violative of Articles 14 and 16. Interpretation leading to a statute unconstitutional should be avoided.

14. The matter may be examined from another angle also. The Notification is a beneficial one and is intended to give one more chance to the candidates to appear at any of the examination to be held after the Notification, dated, 11.8.1995. Hence, it should get liberal interpretation to achieve the object and a narrow interpretation restricting benefit to some candidates should be avoided unless such interpretation in imperative. The word 'or' in ordinary usage is disjuncting, as such, the words 'additional chance under the proviso should not be read conjuctively with a candidate who has already availed four chances under Sub-rule (1). If it is read disjuctively, the meaning of the Notification is clear that a

candidate who has already availed four chances under Sub-rule (1) shall be entitled to one more chance irrespective of the fact whether four chances were availed before or after the change in syllabus and scheme vide Notification dated, Feb. 3, 1993 and also whether or not he had availed additional chance under the proviso to Sub-rule (1).

15. Thus, judged from any angle, the interpretation given by the RPSC denying one more chance to the candidates who have availed four chances as per Sub-rule (1) of Rule 1 1 but did not avail an additional chance under the proviso added vide Notification dated, 15.5.1993, is erroneous to be rejected conveniently. Such interpretation not only runs counter to the cardinal rules relating to interpretation of statute, but would make the provision unconstitutional on the ground of discrimination.

16. Consequently, the petitions are hereby allowed. It is held that all candidates who have availed four chances under Sub-rule (1) of rule-11 before or after change in syllabus and scheme of the examination vide Notification dated, 3rd February 1993 shall be entitled to be allowed one more chance at the examination which is held in the instant cases after the date of Notification i. e. 11.8.1995. In other words, the benefit of one more chance shall be available not only to those candidates who have availed four chances before the change in syllabus and scheme and one additional chance under the proviso to Sub-rule (1), which was added vide Notification dated, 15.5.1993, but also to those who completed four chances after the change in syllabus and scheme. The RPSC shall re-examine entitlement of the petitioners to avail one more chance accordingly and, if the petitioners are otherwise eligible they shall be allowed one more chance which is being availed by them in the present examination. Various orders issued by the RPSC rejecting candidature of the petitioners denying them to appear in the main examinations are also quashed. In the facts and circumstances, there shall be no order as to costs.

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