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Court : Rajasthan

Decided On : Apr-17-1986

Reported in : 1986WLN(UC)674

Judge : Ashok Kumar Mathur, J.

Appeal No. : S.B. Civil Writ Petition No. 1617 of 1984

Appellant : Kewal Ram

Respondent : State of Rajasthan

Judgement :

Ashok Kumar Mathur, J.

1. The petitioner is a Scheduled Caste person. He was appointed as Group Sachiv on ad hoc basis in Panchayat Samiti Sri Karanpur vide order dated 6th February, 1980 by the Vikas Adhikari of the Panchayat Samiti, Sri Karanpur. He was posted at Gram Panchayat Arayan Kaminpura. This appointment was further extended for 6 months from 13th October, 1980. The petitioner apprehended that perhaps his services may not be extended, he filed a suit and obtained an interim injunction and thereafter this stay order was confirmed on 26th May, 1982. But before this order could be granted maintaining status quo, the petitioner was relieved, therefore he was not taken back in service. He preferred an appeal before the District Judge, Ganganagar, but without any result. Since a number of writ

petitions identical in nature were filed before this Court, therefore the petitioner has filed the present writ petition submitting that the Panchayat Samiti being an industry the petitioner's services cannot be dispensed with without following the procedure contemplated under Section 25F of the Industrial Disputes Act.

2. A return has been filed by the respondent and it has been submitted that the initial appointment of the petitioner was subject to the availability of the duly selected candidates and duly selected candidates were made available by the Commission, therefore, the petitioner's services are being dispensed with.

3. Be that as it may, the fact remains that the petitioner has remained in the services of the Panchayat Samiti for more than 240 days, therefore the petitioner services should have been dispensed with following the procedure contemplated under Section 25F of the Industrial Disputes Act. It is settled position that the Panchayat Samiti is an industry and in the present case Section 25F of the Industrial Disputes Act has not been complied with therefore the termination of the petitioner is bad. The petitioner should be taken back in service forthwith. However, the petitioner will not be entitled to any back wages because the petitioner has not pointed out in his writ petition that his appointment was subject to the selected candidates being available. Moreover he has not disclosed the correct facts, but on the contrary he has pointed out that his services are being dispensed with and 1660 posts of Group Sachiv are required to be abolished. Though his conduct is not very clean but in view of the fact he is a person from low class and he does not know the real thing, however this will not entitle him the benefit of back wages. It will be open for the respondents to terminate the services of the petitioner in accordance with law if his services are not required. No order as to costs.