

Sat Pal Chopra

Vs

Director-cum-Joint Secretary and Another

Civil Appeal No. 8573 of 1983

(L.M. Sharma, Smt. M.S. Fathima Beevi JJ)

05.12.1990

JUDGMENT

SHARMA J

1. The appellant was appointed as a peon by the respondent No. 2, the Municipal Committee, Dina Nagar, and was later promoted as Moharrir. According to his case, the appellant was further promoted as Octroi Inspector in 1968 and was confirmed in that post in 1969. After the amendment of S. 38 of the Punjab Municipal Act, 1911, the respondent No. 2 referred the matter to the Deputy Director, Punjab Local Self-Government for finding out whether the promotion of the appellant was in accordance with law or not. According to the further case of the appellant, the reply received by the Municipal Committee was in his favour, but still by the order dated 5-8-1980 the post of Inspector was abolished with effect from 22-7-1980. This was challenged by a writ application before the High Court. The High Court dismissed the writ application in limine by one word "Dismissed". The present appeal by special leave is directed against that order.

2. In its counter affidavit before the High Court the State of Punjab inter alia stated that the Government had appointed an authority called "Screening Committee" u/ S. 38(6) of the Act for examining the records for the purpose of absorption of the municipal employees in the corresponding municipal service which included the Octroi Inspectors, Clerks etc. The "Screening Committee" did not find the appellant fit for absorption as he did not possess the requisite experience as clerk. He was holding the post of Octroi Moharrir and not that of a clerk, which post was equated with the post of clerk only on 1-2-1968 and he therefore did not have the requisite experience as a clerk for the purpose of promotion.

3. In view of the cryptic order of the High Court dismissing the writ application, we do not have the advantage of the views of the learned Judges. The learned counsel for the respondents addressed several arguments in support of the case of the State and the appellant relied on the averments made in the writ petition before the High Court. A prayer has also been made for admission of certain documents not produced before the High Court for reasons mentioned in the civil miscellaneous petition.

4. After hearing the learned counsel for the parties, we are of the view that the matter deserves a fresh hearing of the writ case by the High Court, and disposal of the same by a reasoned judgment. The appellant who retired in 1989 shall be allowed to rely upon the additional documents which he must produce without delay with an application before the High Court. The respondents will be

permitted to file a further counter-affidavit before the parties are heard again. The appeal is allowed in the above terms. There will be no order as to costs.

Order accordingly.

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