

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

W.P. No.13410 of 2008

ORDER : (ORAL)

(Per the Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition the petitioner has challenged the order dated 24.1.2008, passed in O.A. No.291 of 2004, whereby O.A. filed by the petitioner was dismissed by the learned Tribunal.

2. The case of the petitioner is that he was initially appointed as Operative through employment exchange in a regular vacancy in the year 1979. He was removed from service for want of vacancy on 1.5.1980 and continued as skilled worker till 10.5.1982 and was re-appointed as Operative on 10.5.1982. He was promoted as Farm Foreman Grade-II on 14.11.1985 and his services were regularized with effect from 14.11.1985, while the services of the 3rd respondent have been regularized with effect from 4.1.1985. The seniority list of Farm Foreman-II was prepared on 24.2.1991 and name of the petitioner was shown at serial No.27 by giving retrospective regularization with effect from 14.1.1985. While so, the respondents reverted the petitioner as Farm Foreman Grade-II by proceedings in Rc.No.3626/97-B2 dated 10.7.1997.

3. Aggrieved by the aforesaid order, the petitioner filed O.A.No.4471 of 1997, which was allowed by the Tribunal on

11.11.2002 setting aside the impugned proceedings of reversion dated 10.7.1997, as being violative of the principles of natural justice. The respondents, without restoring the petitioner as Assistant Inspector of Sericulture, issued a provisional seniority list revising the date of regularization and seniority of the petitioner and the petitioner filed a reply to the same, but respondents, without considering the reply filed by him, issued a final seniority list on 4.4.2003 showing the name of the petitioner at serial No.83.

4. The petitioner filed an appeal for review of the seniority list dated 29.4.2003, but the 1st respondent rejected the same by a non-speaking order dated 7.5.2003, without assigning any reasons. When respondents sought to revert the petitioner, he filed C.A.No.232 of 2003 and when respondents were summoned, orders were issued reposting the petitioner as Assistant Inspector of Sericulture. Thereafter, a show cause notice was issued to the petitioner as to why he should not be reverted and he filed a detailed reply to the same. But, respondents, without considering the contentions raised by the petitioner in the reply and the ratio held by the various Courts, issued impugned proceedings Rc.No.9769/1997-B2 dated 31.12.2003 reverting the petitioner as Farm Foreman by a non-speaking order.

5. Respondent No.3 - unofficial respondent filed a counter stating that he was appointed as Sericulture Demonstrator in a direct recruitment vacancy as per rules and promoted as Farm Foreman-II and his services were also regularized in the said post with effect from

4.1.1985 from the date of his promotion. Whereas the petitioner was promoted as Farm Foreman and his services were regularized in the said cadre with effect from 14.11.1985 and accordingly his seniority was fixed in the cadre of Farm Foreman. As the 3rd respondent and one Mr.M.Hanumanthappa Farm Foreman-II in Zone-IV filed a representation stating that the petitioner who was junior to them was given promotion erroneously as Assistant Inspector of Sericulture ignoring their cases, the mistake was rectified and the name of the petitioner was shown at serial No.83 in the seniority list of Farm Foreman-II and he was reverted to the lower cadre of Farm Foreman-II from the post of Assistant Inspector of Sericulture and he is working as such as on 5.1.2004.

6. The official respondents submitted that the first appointment of the petitioner was as an Operative and the first appointment of the 3rd unofficial respondent was as Sericulture Demonstrator. In the provisional seniority list dated 24.1.1991 in zone-IV the respondents have shown the date of regularization of the petitioner as Farm Foreman-II as 14.1.1985 instead of 14.11.1985. The respondents admitted that there was a typographical error and after issuing notice etc., as per the orders of the Tribunal vide O.A.No.4471 of 1997, the petitioner was reverted from the post of Assistant Inspector, Sericulture to that of Farm Foreman-II.

7. Even during the argument, counsel for the petitioner failed to establish that the seniority of the petitioner was from 14.1.1985 instead

of 14.11.1985. Therefore, we find no merit in the present petition and the same is accordingly dismissed, confirming the order dated 24.1.2008 in O.A.No.291 of 2004 passed by the learned Tribunal. No order as to costs.

8. Consequently, miscellaneous petitions pending, if any, in the matter shall stand closed.

JUSTICE SURESH KUMAR KAIT

DR.JUSTICE SHAMEEM AKTHER

21st June, 2017
skmr

