

02.01.2024
Item No.01
Court No.11
Avijit Mitra

WPCT 227 of 2023

In re: An application under Article 226 of the
Constitution of India;
And

**The Union of India & ors.
- Versus -
Sri Rajendra Dubey**

Mr. D.N. Ray,
Mr. Subrata Santra
...for the petitioners
Mr. Rajendra Dubey
...Respondent in-person

Affidavit-of-service filed by the petitioners be
kept on record.

Mr. Ray, learned advocate appearing for the
petitioners prays for leave to make necessary
corrections in the cause title and the prayer portion of
the writ petition.

Such prayer is considered and allowed and the
writ petition is taken up for hearing treating it to have
been preferred challenging the order dated 29th May,
2023 passed in the original application being OA No.
350/01209/2021 (Sri Rajendra Dubey versus Union of
India and Others).

Mr. Ray submits that the learned Tribunal
allowed the original application preferred by the
respondent herein and quashed the order dated 30th

July, 2021 passed by the petitioner no. 2 only on the principles of fairness and equity without appreciating the relevant recruitment rules in force.

Drawing our attention to a memo dated 18th November, 2020, annexed at page 20 of the writ petition, Mr. Ray submits that the respondent's empanelment was rightly held to be invalid in view of the railway notification dated 28^h April, 2020 and consequent upon categorization of the said post as Group 'A' in Level-10 of the pay matrix. From the contents of the said notification and the notification dated 20th July, 2020, it can be inferred that there is no existence of the Group 'B' post of Rajbhasha Adhikary. Such argument, as advanced, was glossed over by the learned Tribunal and no finding was returned on the same. Such infirmity warrants interference of this Court.

He argues that in view of the notification dated 28^h April, 2020, the respondent was issued a show cause notice dated 28th May, 2021 and the respondent's reply to the same was duly considered and disclosing the reasons, the order dated 30th July, 2021 was passed by the petitioner no. 2 reverting the respondent to the former Group-'C' post and the learned Tribunal erred in law in quashing the same.

Per contra, Mr. Rajendra Dubey, respondent, appearing in-person, submits that he had been

illegally reverted and penalised for no fault on his part. Responding to the railway notification dated 25th June, 2019, he applied for the Group 'B' post of Rajbhasha Adhikary. Such application was accepted and he was called for a written test on 29th November, 2019. He emerged to be successful in the same and was called for *viva voce* test on 9th July, 2020 and was thereafter promoted to the said post by an order dated 22nd July, 2020 and thereafter he was allowed to join the said post on 24th July, 2020 and was granted the appropriate pay scale. In support of such contention, he has drawn our attention to the memo dated 20th July, 2020 and 22nd July, 2020.

Drawing our attention to a notification dated 16th January, 2023, annexed at page 12 of the supplementary affidavit, he argues that the post of Rajbhasha Adhikary (Group-'B') has not been abolished. Furthermore, the Indian Railways Official Language Department (Group-A Posts) Recruitment Rules, 2023 came into effect more than 2 years after the respondent was promoted and allowed to join the post of Rajbhasha Adhikary. In the said conspectus, the learned Tribunal has rightly set aside the order of reversion dated 30th July, 2021.

In reply, Mr. Ray argues that the reason for the delay in finalizing the Group 'B' selection of Rajbhasha Adhikary was purely administrative and beyond the

purview of the Zonal Railways. Such delay also stood intervened by a period lost due to the pandemic.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, by a memo dated 25th June, 2019, the competent authority decided to initiate the Group 'B' selection for the post of Rajbhasha Adhikary for filling up of 02 unreserved vacancies, as intimated by Deputy CPO (Gaz)/ GRC *vide* letter dated 21st June, 2019. The respondent applied and he was called for a written test on 29th November, 2019 and a *viva voce* test on 9th July, 2020. Having emerged to be successful in the selection process he was promoted to the Group B post by a memo dated 22nd July, 2020 and was allowed to join on 24th July, 2020. The new recruitment rules came into effect more than 2 years after the respondent was promoted and allowed to join the post of Rajbhasha Adhikary.

The contention of the petitioners that the post of Rajbhasha Adhikary (Group 'B') has been abolished, had been rightly discounted by the learned Tribunal as from the memo dated 28^h April, 2020 it was evident that there was a revision of pay structure and not abolition of post. The new recruitment rules also came into effect much after the respondent was selected and allowed to join the concerned post. In view thereof, the

respondent ought not to have been reverted moreso when there was no laches on the part of the said respondent.

The learned Tribunal by a reasoned order exercised discretion in favour of the respondent upon arriving at specific findings and we do not find any error, least to say any patent error of law in the order impugned.

For the reasons discussed above, the writ petition is dismissed.

There shall, however, be no order as to costs.

The learned advocate-on-record of the petitioners would be at liberty to take back the certified copy of the order impugned upon furnishing a photostat copy of the same to the department.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(V. M. Velumani, J.) (Tapabrata Chakraborty, J.)