IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Prahlad Singh v. State of Rajasthan & Ors.

S.B.CIVIL WRIT PETITION NO.2537/1992
under Article 226 of the Constitution of India.

Date of Order : 26th October, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Rakesh Kalla, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

BY THE COURT :

By this petition for writ the petitioner has questioned the validity and propriety of the order dated 27.4.1992 passed by Collector, Sriganganagar reverting him to the post of Class-IV employee from the post of Lower Division Clerk.

The facts giving rise to present petition are as follows:-

The petitioner entered in the services of the respondents being appointed as a Class-IV employee on 13.12.1974. A promotion was accorded to him to the

post of Lower Division Clerk by an order dated 14.1.1991 as prescribed under Rajasthan Subordinate Offices & Ministerial Staff Service Rules, 1957 (hereinafter referred to as “the Rules of 1957”). The promotion was accorded to the petitioner on basis of recommendations made by a competent departmental promotion committee constituted under Rule 26(C)(2) of the Rules of 1957. The order of promotion dated 14.1.1991 also mentions that the appointment by way of promotion to the post of Lower Division Clerk was given against the vacancies created for census operation. By the order impugned the Collector, Sriganganagar reverted the petitioner due to completion of work pertaining to census operation.

The petitioner has given challenge to the order of reversion on the count that he was promoted on regular basis under the recommendations of departmental promotion committee, therefore, there was no occasion to revert him on completion of work pertaining to census operation.

A reply to the writ petition has been filed on behalf of the respondents admitting that the promotion was given to the petitioner under the recommendations made by a competent departmental promotion committee, however, the order of reversion was passed by the Collector, Sriganganagar on completion of census operation, as the promotion to

the petitioner was given against the work available due to census operation.

Heard counsel for the parties and perused the record.

From perusal of order of promotion dated 14.1.1991 it is clear that the promotion was accorded to the petitioner under the recommendations made by a competent departmental promotion committee by considering his candidature under the criteria of seniority-cum-merit. Rule 26(C)(2) of the Rules of 1957 provides for constitution of a committee to consider the candidature of eligible candidates for the purpose of promotion to the post of Lower Division Clerk and to prepare a list of the persons found fit to be promoted. The promotions made on basis of recommendations given by the departmental promotion committee are substantive in nature and such promotion cannot be made subject to availability of work under census operation. In fact the promotion of the petitioner was in substantive capacity and, therefore, the same was made against the available existing vacancy. The promotion of the petitioner could not be treated as a promotion against some temporary vacancy. The respondents, therefore, wrongly reverted the petitioner by order impugned Anx.3 dated 27.4.1992 on completion of the work pertaining to census operation.

In view of whatever stated above the writ petition deserves acceptance and the same, therefore, is allowed. The order impugned Anx.3 dated 27.4.1992 is quashed and and it is declared that the petitioner is entitled to continue as Lower Division Clerk in pursuant to the order dated 14.1.1991.

(GOVIND MATHUR),J.

kkm/ps.