

RAJASTHAN STATE SPORTS COUNCIL & ANR. A

v.

SMT. UMA DADHICH & ANR.

(Civil Appeal No. 883 of 2019)

JANUARY 21, 2019

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[DR. DHANANJAYA Y CHANDRACHUD
AND HEMANT GUPTA, JJ.]

Rajasthan State Sports Council Service Rules, 2006 – r.9(4) – Respondent no. 1 was appointed under the Rajasthan State Sports Council as Coach Grade-III in 1986 and was thereafter promoted as Coach Grade-II in 1990 and Coach Grade-I in 1997 – Nine persons were promoted to the post of Sports Officer from the post of Coach Grade-I – Respondent No.1 challenged the decision of the appellant to promote respondent No. 2 for vacancies falling in the year 2003-2004 – Dismissed by Single Judge of High Court – Division Bench reversed the judgment holding that the criteria of seniority-cum-merit and merit for the purpose of promotion to the post of Sports Officer was introduced by the 2006 Rules and therefore, the criteria prevalent in 2006 could not have been made applicable to prior vacancies – On appeal, held: Respondent had no vested right to promotion but only a right to be considered in accordance with the rules as they existed on the date when the case for promotion was taken up – Further, r.9(4) of the 2006 Rules, relied on by the appellant, does not indicate that the vacancies must be filled on the basis of Rules as they prevail in the year in which they have occurred – Direction issued by the High Court is unsustainable.

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Allowing the appeal, the Court

Held: 1.1 The respondent had no vested right to promotion but only a right to be considered in accordance with the rules as they existed on the date when the case for promotion was taken up. [Para 7][587-G]

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1.2 Rule 9(4) of the Rajasthan State Sports Council Service Rules, 2006 on which reliance has been placed on behalf of the appellant does not indicate that the vacancies must be filled in on the basis of Rules as they prevail in the year in which they have occurred. The direction which was issued by the High Court is

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- A unsustainable. It is however, clarified that in the event that respondent No. 1 has been promoted in the meantime in regular course, this order will not affect the merits of that promotion. The impugned judgment of the High Court is set aside. [Paras 9-12][588-C-E]
- B *H.S. Grewal v. Union of India (1997) 11 SCC 758; Deepak Agarwal v. State of Uttar Pradesh (2011) 6 SCC 725 : [2011] 4 SCR 149; State of Tripura v. Nikhil Ranjan Chakraborty (2017) 3 SCC 646; Union of India & Ors.v. Krishna Kumar & Ors. SLP(C) No. 26541 of 2014 decided on 14 January 2019; Y.V. Rangaiah v. Sreenivasa Rao (1983) 3 SCC 284 – referred to.*
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Case Law Reference

	(1997) 11 SCC 758	referred to	Para 7
D	[2011] 4 SCR 149	referred to	Para 7
	(2017) 3 SCC 646	referred to	Para 7
	(1983) 3 SCC 284	referred to	Para 8

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 883 of 2019.

- E From the Judgment and Order dated 23.11.2015 by the High Court of Rajasthan at Jodhpur in D B. Civil Special Appeal (W) No. 473 of 2015.

Sandeep Pathak, Ms. Archana Pathak Dave, Utsav, Advs. for the Appellants.

- F Rishabh Sancheti, Sanyat Lodha (For P. V. Saravana Raja), Advs. for the Respondents.

The Judgment of the Court was delivered by

DR. DHANANJAYA Y CHANDRACHUD, J.

- G Leave granted.

1. Respondent no. 1 was appointed under the Rajasthan State Sports Council on the post of Coach Grade-III on 20 March 1986. She was thereafter promoted as Coach Grade-II on 22 February 1990 and as Coach Grade-I on 10 January 1997.

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2. On 27 February 2009, nine persons were promoted to the post of Sports Officer from the post of Coach Grade-I. Respondent No. 1 instituted a writ petition before the High Court against the decision of the appellant to promote respondent No. 2 for vacancies falling in the year 2003-2004. A

3. The learned Single Judge dismissed the writ petition by an order dated 1 April 2015. In appeal, a Division Bench of the High Court reversed the judgment of the learned Single Judge. B

4. While reversing the judgment of the learned Single Judge, the High Court has observed as follows:

"It is not in dispute that the criteria of seniority-cum-merit and merit for the purpose of promotion to the post of Sports Officer was introduced by the Rajasthan State Sports Council Service Rules, 2006. The criteria settled in the year 2006 by no stretch of imagination could have been made applicable for the vacancy that occurred prior to introduction of the Rules aforesaid." C D

5. It is this finding which forms the basis of the ultimate direction that was issued by the Division Bench of the High Court to reconsider the case of respondent No. 1 for promotion as Sports Officer against vacancies of the year 2003-2004 by adopting the criteria applicable at the relevant time. E

6. In order to complete the narration of facts, it would be necessary to note that the earlier criterion for promotion to the post of Sports Officer prior to the year 2006 was seniority. Thereafter, the criterion was altered to seniority-cum-merit and merit. The High Court proceeded on the basis that the criterion prevalent in 2006 could not have been applied to prior vacancies. F

7. There is merit in the submission which has been urged on behalf of the appellants that the respondent had no vested right to promotion but only a right to be considered in accordance with the rules as they existed on the date when the case for promotion was taken up. This principle has been reiterated in several decisions of this Court. [See H.S. Grewal Vs. Union of India¹, Deepak Agarwal Vs. State of Uttar G

¹(1997) 11 SCC 758

- A Pradesh² and State of Tripura Vs. Nikhil Ranjan Chakraborty³ and Union of India & Ors. Vs. Krishna Kumar & Ors.⁴

8. The judgment in Y.V. Rangaiah Vs. Sreenivasa Rao⁵ dealt with a situation where the rules required that the promotional exercise must be completed within the relevant year. Rangaiah's case(supra), has hence

- B been distinguished in the judgments noted above.

9. Rule 9(4) of the Rajasthan State Sports Council Service Rules, 2006 on which reliance has been placed on behalf of the appellant does not indicate that the vacancies must be filled in on the basis of Rules as they prevail in the year in which they have occurred.

- C Rule 9(4) is in the following terms:-

“The appointing authority shall determine the vacancies of earlier years, year wise which were required to be filled in by promotion, if such vacancies were not determined and filled earlier in the year in which they were required to be filled in.”

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10. In this view of the matter, the direction which was issued by the High Court is unsustainable.

11. We, however, clarify that in the event that respondent No. 1 has been promoted in the meantime in regular course, this order will not affect the merits of that promotion.

E 12. The appeal is, accordingly, allowed. The impugned judgment of the High Court is set aside.

13. There shall be no order as to costs.

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Divya Pandey

Appeal allowed.

²(2011) 6 SCC 725

³(2017) 3 SCC 646

⁴CA@SLP(C) No. 26541 of 2014 decided on 14 January 2019.

⁵(1983) 3 SCC 284