

A RAJASTHAN STATE ROAD TRANSPORT CORPORATION &
OTHERS

v.

SADHU SINGH

B (Civil Appeal No.1058 of 2022)
FEBRUARY 04, 2022

**[DR. DHANANJAYA Y CHANDRACHUD AND
SURYA KANT, JJ.]**

- C *Service Law – Selection Grade – Grant of – Respondent-conductor was compulsorily retired from service in 2003 – He instituted suit in 2010 seeking benefit of first, second and third Selection Grades on completion of 9, 18 & 27 years of service – Trial court partially decreed the suit, directing that respondent shall be entitled to the grant of Selection Grade from 25 January 1992*
- D *on the completion of 9 years of service & the second Selection Grade pay scale from 7 January 2002 on the completion of 18 years of service –First Appellate Court as well as the High Court upheld the judgment of trial court – Held: The respondent waited for seven long years after his retirement to pursue a claim for grant of Selection Grade – It was clearly beyond the residuary period of limitation of three years provided in Art. 137 of the Schedule to the Limitation Act – That apart, grant of selection grade was not a matter of right and was subject to terms and conditions which were stipulated – In terms of Clause 7 of the scheme of Selection Grade only those employees whose service record was satisfactory were to be granted Selection Grade – Respondent failed to fulfill the terms and conditions as it did not fulfill the requirements of a clean record of service – During his service tenure, respondent was subjected to several disciplinary proceedings and as many as 19 charge-sheets were issued against him which resulted in penalties of varying nature*
- E *– Thus, both on the question of limitation as well as on merits, respondent was not entitled to relief – Limitation Act, 1963 – Article 137 of the Schedule .*
- F *State of Rajasthan and Others v Shankar Lal Parmar (2011) 14 SCC 235: [2011] 11 SCR 762 – referred to.*

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Case Law Reference

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[2011] 11 SCR 762

referred to

Para 8

CIVIL APPELLATE JURISDICTION: Civil Appeal No.1058 of 2022.

From the Judgment and Order dated 07.08.2018 of the High Court of Judicature for Rajasthan Bench at Jaipur in S.B. Civil Second Appeal No.282 of 2017. B

Ms. Charu Mathur, Adv. for the Appellants.

Ms. Nidhi, Sarthak Arora, Advs. for the Respondent. C

The following Order of the Court was passed:

ORDER

1. Leave granted.

2. This appeal arises from a judgment of a Single Judge of the Rajasthan High Court at the Jaipur Bench in SB Civil Second Appeal No 282 of 2017. D

3. The respondent was appointed on the post of Conductor by the Regional Manager of the appellant at Bikaner. On 25 January 1992, the Finance Department of the Government of Rajasthan issued an Office Order in regard to the grant of the benefit of the first, second and third Selection Grades to employees on completing 9, 18 and 27 years of service respectively. The Office Order of 25 January 1992 was made applicable to the appellant. On 4 January 2003, the respondent was compulsorily retired from service. During the tenure of his service, the respondent was served with as many as 19 charge-sheets in pursuance of which he was subject to departmental penalties. E

4. The respondent instituted a suit in 2010, nearly seven years after his compulsory retirement seeking the benefit of Selection Grade on the completion of 9, 18 and 27 years of service. The Additional Civil Judge (Junior Division) decreed the suit partially on 26 March 2012 by directing that the respondent shall be entitled to the grant of Selection Grade from 25 January 1992 on the completion of 9 years of service and the second Selection Grade pay scale from 7 January 2002 on the completion of 18 years of service. The appeal against the judgment of F G H

- A the trial Judge was dismissed by the First Appellate Court on 21 January 2017, and eventually, the High Court by its judgment dated 7 August 2018 dismissed the Second Appeal.
5. During the course of the hearing, two submissions have been urged by Dr Charu Mathur, learned counsel who appears on behalf of
- B the appellant. Firstly, it has been submitted that the suit which was instituted in 2010, nearly 7 years after the respondent had retired was barred by limitation. Secondly, it has been submitted that in order to avail of the benefit of the Selection Grade, the employee was required to have a clean record of service. In the present case, it has been stated
- C that the respondent was served with as many as 19 charge-sheets and penalties. A tabulated statement of the disciplinary penalties imposed on the respondent has been placed on the record and is extracted below:

	1. Suspension Order No.2963 dated 09.05.1977	Reinstatement Order No.331 dated 25.05.1977 & following penalties 1. Forfeiture of pay of suspension period 2. Reinstated in complete enquiry 3. Penalty of Rs.50/-
D	2. Suspended 18.01.1978	Reinstatement Order No.2822 dated 02.03.1978 1. Withholding three annual pay increments without cumulative effect 2. Forfeiture of pay of suspension period
E	3.	Dismissed from service vide the Divisional Manager (Bikaner) Order No.8047 dated 13.10.1978 and vide the Additional General Manager Jaipur Order No.1354 dated 27.10.1978 again reinstated in service on 28.10.1978
F	4. Charge Sheet No.781 Dated 17.02.1979	Terminated from service vide Divisional Manager (Bikaner) Order No.2803 dated 27.06.1979 and vide Divisional Manager (Bikaner) Order No.4298 Dated 31.08.1979 the termination order set aside and was inflicted with the following penalties. 1. Withholding two annual pay increments with cumulative effect 2. Admonished and no benefits payable from the date of termination till rejoining the duty and the service was held in continuity from dated 03.09.1979
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A	5. Charge Sheet No.2426 Dated 21.06.1983	Being reinstated in incomplete enquiry vide order No.2174 Dated 10.06.1983 and vide order No.6273 Dated 06.12.83 acquitted in charge sheet No.2426 Dated 21.06.82 and Charge Sheet No.958 Dated 18.03.1983.
B	7. Charge Sheet No.4938 Dated 24.10.83	Inflicted with a penalty of Rs.500/- vide Order No.8083 Dated 17.11.83
C	8. Charge Sheet No.2482 Dated 25.06.84	Inflicted with the following punishment vide order No.310:- (1) Withholding one annual increment with cumulative effect (2) Transferred to Sardar Shahar Depot
D	9. Charge Sheet No.5610 Dated 2.01.87	Vide order No.5838 Dated 05.10.99 his two annual pay increments were withheld with cumulative effect and LWP sanctioned.
E	10. Charge Sheet No.5082 Dated 13.12.87	Recovery of Rs.407/- vide order No.2694 Dated 02.12.97
F	11. Charge Sheet No.556 Dated 27.01.87	One annual pay increment withheld without cumulative effect vide Order No.1350 Dated 31.01.91
G	12. Charge Sheet No.2441 Dated 26.04.88	One annual pay increment withheld without cumulative effect vide Order No.3324 Dated 29.05.94
H	13. Charge Sheet No.5983 Dated 07.06.91	Inflicted with a penalty of Rs.500/- vide order No.1587 Dated 30.03.99
	14. Charge Sheet No.4314 Dated 31.05.89	Two annual pay increment withheld with cumulative effect vide Order No.745 Dated 31.01.94
	15. Charge Sheet No.2618 Dated 08.05.96	One annual pay increment withheld without cumulative effect vide Order No.5785 Dated 29.01.97
	16. Charge Sheet No.3142 Dated 31.05.01	Inflicted with a penalty of Rs.500 vide Order No.132 Dated 05.01.02
	17. Charge Sheet No.3143 Dated 31.05.01	Inflicted with a penalty of Rs.500 vide Order No.133 Dated 05.01.02
	18. Charge Sheet No.148 Dated 10.01.02	Inflicted with a penalty of Rs.1000 vide Order No.8080 Dated 17.11.03
	19. Charge Sheet No.149 Dated 10.01.02	Inflicted with a penalty of Rs.1000 vide Order No.8082 Dated 17.11.03

6. On the other hand, Ms Nidhi, learned counsel appearing on behalf of the respondent submits that the trial Judge correctly held that the suit was instituted in 2010 after the representation of the respondent

- A was rejected and hence was within limitation. Moreover, it was sought to be urged that the order of compulsory retirement is not a penalty. Finally, learned counsel submitted that the department did not produce adequate evidence to establish all the charge-sheets and the disciplinary penalties against the respondent.
 - B 7. We shall at the outset deal with the issue of limitation. The respondent was retired compulsorily from service on 4 January 2003. Original Civil Suit No 41 of 2010 was instituted in 2010. The trial Judge as well as the first appellate court were of the view that the suit was not barred by limitation since the representation of the respondent for the grant of the three Selection Grades was rejected on 18 January 2010.
 - C The first appellate court, while concurring with the trial Judge also noted that the “final request” made by the respondent-plaintiff on 18 January 2010 was rejected and hence the suit was within limitation.
8. The respondent waited for seven long years after his retirement to pursue a claim for the grant of Selection Grade. This was clearly beyond the residuary period of limitation of three years provided in Article 137 of the Schedule to the Limitation Act 1963. That apart, in the decision of this Court in *State of Rajasthan and Others vs Shankar Lal Parmar*¹, the Court has considered the ambit of the scheme for Selection Grade. This Court has held thus:
- E “6. Another important and relevant clause in the said order for our perusal is Clause 7, which is also reproduced hereinbelow:
 - F “7. Selection Grades in terms of this order shall be granted only to those employees whose record of service is satisfactory. The record of service which makes one eligible for promotion on the basis of seniority shall be considered to be satisfactory for the purpose of grant of the Selection Grade.”
 - G 7. Clause 7 makes it clear that only those employees would be entitled for grant of Selection Grades, whose service record has been satisfactory and are otherwise eligible for promotion on the basis of seniority but have not been able to get the same as there might not be any channel of promotion or for want of sanctioned posts in the cadre.”

H ¹(2011) 14 SCC 235

9. The Court held that in terms of Clause 7, only those employees whose service record has been satisfactory would be entitled to be granted Selection Grade. In this context, the Court held:

“17. Clause 7 further makes it clear that only those/such employees would be entitled to be granted Selection Grade whose service record has been satisfactory. This implicitly shows that the person who has an untainted, unblemished, clean and unpolluted record in service would be treated on a higher pedestal than those who have either tainted, blemished, unclean or polluted record. This obviously appears to be a reasonable classification and is under the ambit and touchstone of Article 14 of the Constitution. There is neither any ambiguity nor any doubt in the same.”

10. On the touchstone of the above principles, it is evident that the respondent had been subjected to several disciplinary proceedings and as many as 19 charge-sheets were issued against him which resulted in penalties of a varying nature. The service record of the respondent cannot be regarded as untainted or clean.

11. Ms Nidhi, learned counsel for the respondent submitted that some of the penalties which were imposed on the respondent were without cumulative effect. The consequence of the withholding of increments without cumulative effect is that after the period prescribed, the respondent would be entitled to restoration of the original pay scale or the original pay. However, this does not obviate the position that the imposition of the penalty itself indicates that the service record of the employee was not satisfactory. Another submission which has been urged is that the penalties were of a minor nature. Assuming that to be so, it is evident that for the grant of Selection Grade, the respondent did not fulfil the requirements of a clean record of service. The grant of the Selection Grade is not a matter of right and was subject to the terms and conditions which were stipulated. The respondent failed to fulfill these terms and conditions.

12. For the above reasons, we are of the view that both on the question of limitation as well as on merits, the respondent was not entitled to the relief which was sought. The suit instituted by the respondent seven years after he had demitted office was barred by limitation. That apart, the respondent failed to meet the basic requirements for the Selection Grade.

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A 13. We accordingly allow the appeal and set aside the impugned judgment and order of the High Court dated 7 August 2018. In consequence, the suit instituted by the respondent shall stand dismissed.

14. Pending applications, if any, stand disposed of.

Bibhuti Bhushan Bose
(Assisted by : Neha Sharma, LCRA)

Appeal allowed.