

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4305 OF 2009
(@SPECIAL LEAVE PETITION (CIVIL)NO.21762 OF 2008)

Ramdan Charan

Appellant(s)

VERSUS

Rajasthan High Court, Jodhpur

Respondent(s)

ORDER

Leave granted. Heard both sides.

2. The appellant was a Class-IV employee in the Jaipur District. He joined the service in 1981. In 1982 it appears that there was a strike by the Lower Division Clerks of the High Court and as there was dearth of sufficient number of L.D.C.s, the appellant was promoted to the cadre of L.D.C. and was given an appointment as L.D.C. but with a condition that if he does not pass the requisite test his service would be terminated. The appellant could not pass the test which qualifies him as an L.D.C. and as he has failed the test, the authorities terminated his service in the year 1995. The appellant though challenged his termination, he was not successful.

3. Heard learned counsel for the appellant and learned counsel for the High Court of Rajasthan.

4. Learned counsel for the appellant now contends that if he was not found suitable for the post of L.D.C. as he had not passed the requisite test, the authorities should not have treated him as out of service and he was entitled

to continue as a Class-IV employee. This contention, it appears, to be fair. Learned counsel for the High Court of Rajasthan contends that in the appointment order of L.D.C. itself stated that in case he fails to pass the test, his services would be terminated but this contention which has been accepted by the High Court does not appear to be correct inasmuch as the person working in a lower cadre was promoted on condition on passing the test and if he does not pass the test, he could be reverted to the lower cadre from which he was promoted but he could not be terminated from his service altogether. The respondent High Court is directed to reinstate the appellant as Class-IV employee within a period of four weeks and we make it clear that the appellant will not be entitled to any arrears of salary for the period he was out of service. The High Court would be at liberty to post him at any of the place(s) as a class-IV employee.

Appeal is disposed of accordingly. No costs.

.....CJI.
(K.G. BALAKRISHNAN)

.....J.
(P. SATHASIVAM)

.....J.
(J.M. PANCHAL)

NEW DELHI;
13TH JULY, 2009