



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 8952/2022

Madan Lal

-----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Home Affairs, Government Of Rajasthan, Jaipur.
2. The Director General Of Police, Head Quarter, Jaipur.
3. The Inspector General Of Police, Jaipur Range, Jaipur.
4. The Commandant, Mewar Bhil Corps., Banswara.

-----Respondents

For Petitioner(s) : Mr. Sushil Solanki
For Respondent(s) : Ms. Anamika Bishnoi for
Ms. Vandana Bhansali

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
Order

08/05/2023

Heard learned counsel for the petitioner.

The present writ petition has been filed with the following prayers:-

"i) by an appropriate writ, order or directions, the respondents be directed not to consider the case of the petitioner for promotion to the post of Assistant Administrative Officer 2022-2023 and further they be directed to consider the case of the petitioner for promotion to the post of Additional Office Superintendent on and from the date person junior to the petitioner are so promoted with all congenital benefits.

ii) by an appropriate writ, order or directions, it may declared that the petitioner had already joined the



duties on the post of Assistant Administrative Officer pursuant to the order dated 20.07.2020 (Annex.2) and further the FIR dated 08.08.2020 will not come in the way of the petitioner in granting promotion to the post of Additional Officer Superintendent against the vacancies of the year 2022-2023."

Briefly, the facts to be noted in the present writ petition are that the petitioner was initially appointed on the post of LDC in the respondent-Department and thereafter, vide order dated 30.06.2015 he was promoted to the post of UDC. After promotion on the post of UDC, the case of the petitioner was further considered for promotion to the post of Assistant Administrative Officer against the vacancies of the year 2020-21 and the promotion order was issued on 20.07.2020, mentioning therein that the promotion to the post of Assistant Administrative Officer will be made effective from 01.11.2020. In the meantime, an FIR was registered against the petitioner on 06.08.2020. The petitioner was arrested and thereafter was released on bail. Thereafter, the petitioner was suspended and a departmental inquiry was instituted against him. The respondent-Department has now again initiated the promotion exercise for the post of Assistant Administrative Officer for the vacancies of the year 2022-23 and in the seniority list prepared on 14.06.2022, the name of the petitioner is reflected and the petitioner is shown as 'Senior Assistant'.

Learned counsel for the petitioner submits that since the petitioner has already been promoted vide order dated 20.07.2020, therefore, showing the name of the petitioner as 'Senior Assistant' in the seniority list prepared for promotion to



the post of Assistant Administrative Officer for the vacancies of 2022-23 is arbitrary and illegal. He further submits that in the seniority list prepared, the designation of the petitioner is shown as 'Senior Assistant', whereas he already stood promoted on the post of Assistant Administrative Officer vide order dated 20.07.2020. He, therefore, prays that the present writ petition may be allowed and the petitioner may be ordered to be promoted as Assistant Administrative Officer w.e.f. 01.11.2020 in pursuance of the promotion order dated 20.07.2020 for the vacancies of the year 2020-21. Alternatively, the learned counsel prays that the name of the petitioner may be kept in a sealed cover as the year of promotion could not be changed until the disciplinary inquiry is finalized against him.

Per contra, the learned counsel for the respondents submits that a bare perusal of the order dated 20.07.2020 shows that the promotion order was to be made effective w.e.f. 01.11.2020 and, thus, the petitioner was not allowed to join or work on the post of Assistant Administrative Officer w.e.f. 22.07.2020. She submits that after passing of the order dated 20.07.2020, the petitioner was found involved in a criminal case and thereafter, was sent to judicial custody. She submits that the petitioner has been placed under suspension and the disciplinary inquiry is underway, therefore, presently the petitioner has no cause of action. She further submits that even no orders adverse to the petitioner have been passed by the respondents so far. She, therefore, submits that the writ petition may be dismissed.

I have considered the submissions made at the Bar and have gone through the relevant record of the case.



The respondent-Department has issued an order on 20.07.2020, whereby the petitioner was promoted on the post of Assistant Administrative Officer but the same was made effective from 01.11.2020. Thus, the Annex.3 showing the fact that petitioner had joined on the post of Assistant Administrative Officer on 22.07.2020 is of no consequence. The petitioner could not have been allowed to join on the post of Assistant Administrative Officer w.e.f. 22.07.2020 as the promotion was to be made effective w.e.f. 01.11.2020. Thus, the contention of the petitioner that he already stood promoted and joined on the post of Assistant Administrative Officer is not sustainable and the same is rejected.

The promotional exercise which has been undertaken by the Department for filling up the vacancies of the year 2022-23 is for consideration of the post of Assistant Administrative Officer and since the petitioner had not joined or promoted on the post of Assistant Administrative Officer so far, therefore, his name has rightly been shown as 'Senior Assistant' in the seniority list prepared by the Department. The petitioner is facing disciplinary inquiry for a very serious misconduct and is placed under suspension. Thus, it is premature stage for this Court to take into account that what will be the fate of the inquiry and whether after culmination of the inquiry, the petitioner will be entitled to be considered for the vacancies of the year 2021-22. The same will depend upon the outcome of the disciplinary inquiry pending against him.

This Court is at pains to note that corruption among Government Servants has become endemic and has been eroding



the confidence of the common man in governance. Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of Indian democracy and the Rule of Law. Corrupt officials have a demoralising effect on honest public servants. Corruption by public servants has become a "gigantic problem". Large-scale corruption retards nation-building activities and everyone has to suffer on that count. It cannot be disputed that where corruption begins all rights end.

In the present case, this Court is primarily of the view that merely because the promotion year of the petitioner is 2020-21 and after passing of the order dated 20.07.2020 which was to be made effective from 01.11.2020, the petitioner was found involved in a serious misconduct and having involved in a bribe of huge amount running in lacs, therefore, any indulgence at this stage would be putting a premium on the misdeeds of the petitioner. In such cases, no mercy can be shown to such persons who are indulged in grave misconduct and they are required to be dealt with iron hands in order to culminate the ills prevailing in the government departments today.

In the opinion of this Court, the relief prayed for by the petitioner in this writ petition cannot be granted at this stage. The writ petition is devoid of any force and same is, therefore, dismissed.

(VINIT KUMAR MATHUR),J

3-/Vivek/-