



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Special Appeal (Writ) No.711/2023

In

S.B. Civil Writ Petition No.12362/2023

Anil Pareek

----Appellant

Versus

1. State Of Rajasthan, Through Principle Secretary Department Of Finance, Government Secretariat Jaipur Raj.
2. Rajasthan Financial Corporation, Through Its Managing Director Address Udyog Bhawan, Tilak Marg Jaipur Rajasthan.
3. Rajasthan Financial Corporation, Through Its Executive Director Address Udyog Bhawan, Tilak Marg Jaipur Rajasthan.

----Respondents

For Appellant(s) : Mr. Kapil Bardhar, Advocate
For Respondent(s) : Mr. S.S. Raghav, Additional Advocate General
Ms. Manjeet Kaur, Advocate

**HON'BLE THE ACTING CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MRS. JUSTICE SHUBHA MEHTA**

Order

04/01/2024

1. Heard.
2. The instant appeal seeks to challenge the correctness of the order dated 10.08.2023 by which the writ petition filed by the appellant has been dismissed on the ground that the appellant has an alternative remedy to assail the impugned transfer order dated



25.07.2023 before the Rajasthan Civil Services Appellate Tribunal (for short 'the Tribunal').

3. Learned counsel for the appellant made a pointed submission that as the appellant is a contractual employee of the Rajasthan Financial Corporation, in the absence of there being a notification as envisaged under Section 2(a) of the Rajasthan Civil Services (Service Matters Appellate Tribunals) Act, 1976 (for short 'the Act of 1976'), the Tribunal does not have the jurisdiction to entertain service dispute between the Rajasthan Financial Corporation and its employees.

4. Earlier this Court had granted the State Counsel an opportunity to place before the Court notification, if any, issued in terms of the provisions contained under Section 2(a) of the Act of 1976.

5. When the case comes up for hearing today, learned counsel for the State is not in a position to produce any such notification.

6. The Rajasthan Civil Services (Service Matters Appellate Tribunals) Act, 1976 (Act No.34 of 1976) has been enacted by the Legislature of the State which provides for the Constitution of Appellate Tribunals for service matters and matters incidental thereto.

7. Section 3 provides for constitution and composition of Tribunals. Section 4 provides for duties of the Tribunal which reads as below:-

"Duties of the Tribunal:-(1) The Rajasthan Civil Services Appellate Tribunal shall hear an appeal against the order passed by any officer or authority on any service matter or matters affecting a Government servant in his personal capacity.



(2) The Tribunal shall have power to confirm, vary or reverse the order against which the appeal is preferred or to remand the matter for fresh decision in accordance with the directions given by it."

8. A perusal of the aforesaid provisions and the statutory scheme clearly reveals that the Rajasthan Civil Services Appellate Tribunal has been constituted and conferred jurisdiction to hear an appeal against the order passed by any officer or authority on any service matter or matters affecting a Government servant in his personal capacity. Therefore, the Tribunal has jurisdiction to hear only those cases which relate to any service matter or matters affecting the Government servant in his personal capacity.

9. Section 2(c) defines Government Servant as below:-

"2(c) "Government Servant" means a person who is or has been a member of a Civil Service or who holds or has held a Civil post under the Government of Rajasthan and includes any such person on foreign Service or whose services are temporarily placed at the disposal of a local or other authority and also any person in the service of a local or other authority whose services have been temporarily placed at the disposal of the State Government or a person in service on a contract or a person who has retired from the Government service elsewhere and is re-employed under the Government of Rajasthan, but does not include a person in the Civil Service of the Indian Union or a State Government serving on deputation in Rajasthan who will continue to be governed by the rules applicable to such person."

10. Following category/class of persons have been defined to mean government servant; (a) a person who is or has been the member of a civil services; or (b) who holds or has held a civil post under the Government of Rajasthan and includes any such person on foreign service or whose services are temporarily placed



at the disposal of a local or other authority; or (c) any person in the service of local or other authority whose services have been temporarily placed at the disposal of the State Government; or (d) a person in service on a contract or a person who has retired from the Government service elsewhere and is re-employed under the Government of Rajasthan.

11. The definition also provides as to who are not included by providing that it does not include a person in the civil services of the Indian Union or a State Government serving on deputation in Rajasthan. It has been provided that he will continue to be governed by the Rules applicable to such person.

12. The appellant herein is an employee of Rajasthan Financial Corporation which is a body corporate constituted under the State Financial Corporation Act, 1951 a Central Enactment. The terms and conditions of services of the appellant are governed by the provisions contained in State Financial Corporations Act, 1951. The appellant discharges functions in connection with the affairs of Rajasthan Financial Corporation. All control including disciplinary control power to appoint, dismiss vests only with the competent authority of the Rajasthan Financial Corporation.

13. Section 2(a) defines Civil Services to mean as below:-

"2(a) "Civil Services" means the Civil Services of the State of Rajasthan and such other services as the State Government may notify in the Official Gazette from time to time, but shall not include—

(I) The members of the Rajasthan Higher Judicial Service and Rajasthan Judicial Service;

(II) Employees of the High Court of Judicature for Rajasthan;



(III) Employees of the Rajasthan Legislative Assembly Secretariat Staff; and
(IV) Employees of the Rajasthan Public Service Commission;”

14. A plain reading of the aforesaid definition clause means the Civil Services of the State of Rajasthan and such other services as the State Government may notify in the Official Gazette from time to time. The appellant does not belong to the Civil Services of the State of Rajasthan, therefore, the only manner in which the services under Rajasthan Financial Corporation could be included within the definition of 'Civil Services' as defined in Section 2(a) is to notify the services under Rajasthan Financial Corporation as Civil Services. In the absence of there being any such notification including services under Rajasthan Financial Corporation as Civil Services, an employee of Rajasthan State Financial Corporation cannot be classified as 'Government Servant' as defined under Section 2(c) of the Act of 1976.

15. Consequence of non-inclusion of services under Rajasthan Financial Corporation as Civil Services by way of notification is that the Tribunal constituted under the Act of 1976 does not have jurisdiction to hear appeal affecting services arising out of any service matter of an employee of Rajasthan Financial Corporation.

16. Resultantly, we hold that the remedy of statutory appeal to Government servant before the Rajasthan Civil Services Appellate Tribunal is not available to the appellant.

17. In view of above conclusion, the order of the Ld. Single Judge that the appellant has an alternative remedy to assail the impugned transfer order before the Rajasthan Civil Services Appellate Tribunal is declared illegal and consequently the



impugned order dated 10.08.2023 is set aside. The writ petition filed by the petitioner is restored to its original number for consideration on its own merits.

18. The appeal is accordingly allowed. No orders as to costs.

UBHA MEHTA),J

(MANINDRA MOHAN SHRIVASTAVA),ACTING CJ

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