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**(2015) 01 RAJ CK 0123**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 838/2015**

Alka Joshi and Others

APPELLANT

Vs

State of Raj and Others

RESPONDENT

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**Date of Decision :** 21-01-2015

**Acts Referred:**

Constitution of India, 1950 — Article 309

**Citation :** (2015) 01 RAJ CK 0123

**Hon'ble Judges :** Nirmaljit Kaur, J.

**Bench :** Single Bench

**Advocate :** Rakesh Arora, for the Appellant

**Final Decision :** Disposed off

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## Judgement

Nirmaljit Kaur, J.—The prayer in the present petition is to grant first, second and third selection grades to the petitioners. It is submitted that the case of the petitioners is squarely covered by the ratio of the judgment rendered by this Court at Jaipur Bench in the case of Smt. Manju Rani Nadheria and ors. vs. State of Rajasthan and ors. (SBCWP No. 2156/2007) decided on 05.03.2010 as under:

"However, a question arises that one becomes eligible for grant of 1st selection scale of 1st promotional post of ACDPO on completion of nine years service; while 2nd selection scale becomes due of 2nd promotional post of CDPO, on completion of 18 years" service in terms of FD Circular dt. 25/01/1992, which was introduced with an object behind it that despite an employee becomes eligible for promotion but stands stagnated for one or the other reason, to meet out such exigency, scheme of selection scale was introduced; but after present amendment having been made vide Rules, 2009 U/r 1(2) thereof, w.e.f. 16/07/98, persons holding post of Supervisor became eligible for promotion to the post of ACDPO on completion of ten years" service under Schedule-II of Rules, 2009 and if statutory Rules having been framed in exercise of powers conferred by provision to Art. 309 of the Constitution, contemplates 10 years" experience as a pre-requisite for a Supervisor to become eligible for first

promotion to the post of ACDPO, at least administrative circulars for grant of selection scale introduced by State Government vide FD Circular dt. 25/01/92 in lieu of promotion, cannot be held entitled for 1st selection of next promotional post on completion of nine years of service and is to be read in harmony of statutory Rules; and in this view whereof, in the opinion of this Court, those holding post of Supervisor will be entitled for 1st selection scale of 1st promotional post of ACDPO on completion of ten years" service under scheme of statutory Rules; and of 2nd selection scale of 2nd promotional post of CDPO on completion of further nine years" service in terms of FD Circular dt. 25/01/1992. That being so, writ petitioners can be considered for grant of 1st selection of the post of ACDPO on completion of ten years" service and not prior thereto, and 2nd selection scale of the post of CDPO on further completion of nine years" service (viz. 10+9=19 years) in terms of FD Circular dt. 25/01/92.

Consequently, all the writ petitions succeed and are hereby allowed; orders impugned dt. 12/02/08 (Ann. 3-CWP-755/2009 and Ann. 1 in CWP-14144/2008); dated 18/03/2006 (Ann. 1-CWP-7027/2009); and dated 24/02/2007 (Ann. 9-CWP-2156/2007), revising selection scale granted earlier and consequential notices for making recovery from their salary are hereby quashed and set aside. However, respondents are directed to consider cases of petitions for grant of 1st selection scale of the post of ACDPO on completion of ten years" service and 2nd selection scale of the post of CDPO on completion of further nine years" service (viz. total 19 years (10+9) service); and if found suitable for grant of selection scales (supra), their fixation be accordingly made along with consequential benefits and after adjustment of payment already made, arrears if any payable, be paid to them. All exercise to comply with directions (supra) be made within four months from today. No order as to costs."

2. Further the judgment dated 05.03.2010 passed in the case of Smt. Manju Rani's case (supra) was affirmed by Hon"ble the Supreme Court vide judgment dated 26.11.2013 in SLP No. 1540/2011. Following the judgment in Manju Rani's case, this Court at Jaipur Bench allowed Writ Petition No. 7571/2010 vide order dated 13.04.2011.

3. In spite of the same, the petitioners have not been granted the first, second and third selection grades probably on the ground that they were neither the petitioners nor they have filed a representation. In fact, the petitioners submitted the representation on 01.09.2014 requesting that they may be granted third selection grade on completion of 27 years of service as per the direction of this Court vide judgment dated 09th March, 2010. However, till date neither the selection grade has been given and nor has the representation is being decided.

4. In view of the above, the present petition is disposed of with a direction that in case the petitioners file a fresh representation within two weeks from today for grant of first, second and third selection grades in terms of the judgment rendered in the case of Smt. Manju Rani Nadheria (supra), the same shall be decided as expeditiously as possible preferably within one month of the receipt of

the said representation. While deciding the said representation, the judgment rendered by this Court in the case of Smt. Manju Rani Nadheria and ors. vs. State and ors. shall be considered and the petitioners shall be granted the said relief if found to be covered by the said judgment.