
(2013) 11 RAJ CK 0174

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4867 of 2009

Anandprakash Solanki

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 26-11-2013

Acts Referred:

Citation : (2014) 2 CDR 670

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Judgement

Vijay Bishnoi, J.—The petitioner has filed this writ petition while claiming following reliefs:

1. The respondents be directed to regularised petitioner from the date his counter part (junior) were regularised (Annex. 6 order dt. 08.06.1988) and also to fix in pay scale and to assign due seniority to the petitioner with all consequential benefit and arrears of salary with interest.
2. Any other appropriate order as may be just and proper in the facts and circumstances of the case be granted in favour of the petitioner.
3. Costs of the writ petition may kindly be awarded in favour of the petitioner.

Brief facts of the case are that the petitioner was appointed as work charged helper in Rajasthan Housing Board at Balotra site on 25.07.1983. He continued in service on the said post up to 06.08.1988. The Housing Board, Jaipur issued a final seniority list on 21.01.1988 of the work charged Helpers, Gardeners and Chawkidars, in which the name of the petitioner was figured at serial No. 59.

2. On 06.08.1988, the services of the petitioner were terminated by the respondent-Rajasthan Housing Board. The petitioner raised an industrial dispute, and when the conciliation proceedings were failed, the State Government referred the dispute to the Labour Court, Jodhpur (for short the labour court hereinafter). The labour Court vide judgment and award dt. 23.12.1991,

answered the reference while declaring that the termination of the petitioner from the service of the respondent -- Housing Board was illegal, and ordered that the petitioner be reinstated with continuity in service. The said award was published on 30.09.1992.

3. The respondent-Housing Board moved an application before the labour Court for setting aside the ex-parte award dt. 23.12.1991 but the said application was rejected by the labour Court on 09.08.1996. When the respondents failed to comply with the award dt. 23.12.1993, the petitioner preferred SBCWP No. 1890/2005 before this Court and during the pendency of the said writ petition, the respondents had reinstated the petitioner in service vide order dt. 14.07.2006 in pursuance of the award passed by the learned labour Court with continuity in service.

4. The petitioner has contended in this writ that the respondents passed an order dt. 08.06.1988 and regularised the services of the work changed employees working in the Rajasthan Housing Board, who had completed two years of service and regularised the Services of all the employees, who are junior to the petitioner but even after reinstatement of the petitioner vide order dt. 14.07.1996, the petitioner has not been granted the benefits, which have been granted to his juniors.

5. Reply to the writ petition has been filed on behalf of the respondents, wherein the factum of reinstatement of the petitioner, with continuity in service in pursuance of the award dt. 23.12.1991, has not been disputed, rather it is contended in the reply that the said facts need not be replied. The respondents have also not disputed that the persons junior to the petitioners have been regularized and fixed in the regular pay scale, however, in the reply, the respondents have contended that the award passed by the labour Court dt. 23.12.1991 was ex-parte award and the petitioner was reinstated in pursuance of the said award only as a daily wager and, therefore, he cannot claim regularisation.

6. The learned counsel for the petitioner has argued that once the petitioner was reinstated in pursuance of the award passed by labour Court on 23.12.1991 with continuity in service, he is entitled for the same benefits, which were granted by the respondents to the similarly situated employees from the date when the junior persons to the petitioners were granted the said benefits.

7. The learned counsel for the respondents has argued that since the petitioner was reinstated as daily wager in pursuance of the judgment and award dt. 23.12.1991, the petitioner is not entitled to get the relief of regularization as claimed in the writ petition.

8. Heard learned counsel for rival parties and perused the material placed on record.

9. It is not in dispute that name of the petitioner was figured in the seniority list

of the work charged employees issued by the respondents on 21.01.1988. It is also not in dispute that the similarly situated persons to the petitioner, whose names were also figured in the seniority list dt. 21.08.1988, have been regularised by the respondents and fixed in the regular pay scale vide order dt. 08.06.1988. It is also not in dispute that the petitioner was reinstated with the continuity in service vide order dt. 14.07.2006 in pursuance of the award passed by the labour Court dt. 23.12.1991.

10. In view of the undisputed facts mentioned hereinabove, this Court has no doubt that the petitioner is entitled to get the similar benefits granted by the respondents-department to the similarly situated employees vide order dt. 08.06.1988. When the petitioner has been reinstated with the continuity in service in pursuance of the award dt. 23.12.1991, he will be deemed in service on 08.06.1988 and is entitled for the benefits granted to the similarly situated employees by the respondents - department.

11. Consequently, this writ petition succeeds and is allowed. The respondents are directed to regularize the services of the petitioner in pursuance of the order dt. 08.06.1988 and fix him in regular pay scale while assigning him due seniority from the date when the persons junior to him have been granted the said benefits. The petitioner is also entitled for arrears of salary and all other benefits. The respondents are also directed to complete this exercise within a period of three months from the date of production of certified copy of this order. No order as costs.