

(2018) 03 RAJ CK 0219

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3972 of 2018

Anoparam Choudhary @APPELLANT@Hash State of Rajasthan

Date of Decision : 20-03-2018

Acts Referred:

Citation : (2018) 03 RAJ CK 0219

Hon'ble Judges : ARUN BHANSALI, J

Bench : Single Bench

Advocate : KailashJangid

Final Decision : Disposed Off

Judgement

This writ petition has been filed by the petitioners seeking following reliefs:-

â??A. By an appropriate writ, order or direction, any order denying the Seniority, Service Benefits and National Benefits of the petitioners for the

post of Headmaster (Secondary Schools), presently working as Principal may kindly be quashed and set aside.

B. By an appropriate writ, order or direction, the respondents may kindly be directed to give all notional benefits for the post of Headmaster

(Secondary Schools) and presently working as Principal w.e.f. the year 2013 as similar situated candidates given the appointment and actual benefits

in pursuance of the advertisement year, 2012 w.e.f. the date of actual joining orders with all consequential benefits.

C. By an appropriate writ, order or direction, the respondents may kindly be directed to grant the benefits like seniority and notional benefits w.e.f. the

year 2012 as given to the similarly situated candidates participating in the same selection process and actual benefits from initially date of joining on the

post of Headmaster (Secondary Schools).

D. By an appropriate writ, order or direction, the respondents may kindly be

directed to grant the entire benefits including the prevailing interest to the petitioners as per the Honâ??ble High Court orders.

E. Any other appropriate writ, order or direction which this Honâ??ble Court may deem just and proper in the facts and circumstances of the case

may kindly be passed in favour of the petitioners.

F. Writ petition filed by the petitioners may kindly be allowed with costs.â??

It is submitted by learned counsel for the petitioners that the issue raised in the present writ petition is squarely covered by judgment of this Court in

Manoj Khandelwal & Ors. v. State of Rajasthan & Ors. : S.B.C.W.P. No. 7283/2014, decided on 16.07.2014 at Jaipur Bench and the said judgment

has been followed in Krishan Lal & Ors. v. The State of Rajasthan & Ors. : S.B.C.W.P. No. 19179/2017, decided on 30.10.2017 at Jaipur Bench and,

therefore, the petitioners are also entitled to the same relief as granted in the case of Manoj Khandelwal (supra) and Krishan Lal (supra).

In view of the submissions made, the writ petition filed by the petitioners is disposed of with the similar directions as given in the case of Manoj

Khandelwal (supra), which read as under:-

â??This Court in Suman Bai and Another Vs. State and Others â?" 2009 (1) WLC (Raj.) 381, held that candidates in lower order of merit cannot

become entitled merely because they had approached court earlier. Petitioners had a fresh cause of action for approaching in such situation and their

writ petition not barred either as res judicata or as being him in properly constituted. This directed the respondents to treat petitioners senior to

respondents, who were in lower order of merit.

It is further contended in the writ petition that in the matter of School Lecturers (English) in the same Department, where appointments were delayed

because of the fault of the State authorities, the candidates were accorded appointment from the date the candidates stood lower in merit were

appointed and they have been granted all consequential benefits of services.

The petitioners approached the respondents by way of representations for extending them same benefits of service which have been granted to the

candidates who stood lower in merit than the petitioners, but till date nothing has been done. Hence, this writ petition on behalf of the petitioners for a

direction to the respondents to treat their appointment from the date the

candidates lower in merit, were given, with all consequential benefits of service, such as seniority, continuity of service, pay fixation, grant of annual grade increments.

Having regard to the facts of the case, writ petition is disposed of requiring the petitioners to make a representation to respondent no.2 " Director,

Secondary Education, Bikaner, along-with a copy of this order, who shall, after verifying the facts stated above, consider and decide the same by a

speaking order within a period of three months from the date of its making, addressing the grievance of the petitioners for extending them the relief as

prayed for, as the candidates, who stood lower in merit, are getting benefit of higher pay, seniority, annual grade increments and other service benefits

including the selection scales. If the respondent no.2 decides to place the petitioners above in seniority than the candidates who stood lower in merit,

then the petitioners would be entitled to all benefits of seniority but they would be entitled only to notional benefits.?"