
(2018) 04 RAJ CK 0023
In the Rajasthan High Court
Case No : Civil Writs No. 5867 of 2018

Ashok Kumar And Anr @APPELLANT@Hash State Of Raj And Ors

Date of Decision : 23-04-2018

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2018) 04 RAJ CK 0023

Hon'ble Judges : ASHOK KUMAR GAUR, J

Bench : Single Bench

Advocate : Dhoop Singh Poonia, Charu Jain, J.M. Saxena

Final Decision : Disposed Off

Judgement

The petitioners have preferred this writ petition claiming the following relief.

PRAYER

It is, therefore, humbly and most respectfully prayed that this writ petition may kindly be accepted and allowed and the action of the respondents

may kindly be declared unconstitutional and further the respondents may kindly be directed to pay the salary to the petitioners in minimum pay scale of

pump driver/operators from the initial date of appointments with all consequential benefits.

Any other writ order of direction which may be deemed proper in the facts and circumstances of the case may also be issued in favour of the

petitioners.

Mr. Dhoop Singh Poonia, counsel for the petitioners has submitted that this Court in SBCWP No.15645/2017 [Janta Jal Nalkoop

Union & Ors. Vs. State of Rajasthan & Ors.] has decided the writ petition vide order dt.02.02.2018 and issued direction to the respondents to

consider the claim of the petitioners in view of the judgment passed by the Apex

Court in the case of State of Punjab & Ors. Vs. Jagjit Singh & Ors.

reported in [(2017) 1 Supreme Court Cases 148].

Learned counsel has further placed reliance on the judgment passed at the Principal Seat, Jodhpur in SBCWP No.3899/2018 [Bhiya Nath & Ors. Vs.

State of Rajasthan & Ors.] whereby the Court has also disposed of the writ petition with the direction to the respondents to consider the claim of the petitioner.

The order dt.02.02.2018 passed by the coordinate Bench in SBCWP No.15645/2017 is reproduced hereunder:-

1. The petitioners have preferred this writ petition under Article 226 of the Constitution of India, claiming the following reliefs:

A. By an appropriate writ order or direction, the respondents may kindly be directed pay salary to the petitioners in minimum pay scale of Pump

Drivers/Operators from the date of their initial appointment with all consequential benefits. B. Any other appropriate writ, order or direction which this

Honâble Court may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioners. C. Writ

petition filed by the petitioners may kindly be allowed with costs.

2. Learned counsel for the petitioner prayed that his representation may be considered by the respondents in light of the judgment passed by the

Honâble Apex Court in the matter of State of Punjab & Ors. Vs. Jagjit Singh & Ors. reported in [(2017) 1 Supreme Court Cases 148]. The

relevant portion of (2 of 3) the judgment reads as under:

60. Having traversed the legal parameters with reference to the application of the principle of 'equal pay for equal work', in relation to

temporary employees (daily-wage employees, ad-hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole

factor that requires our determination is, whether the concerned employees (before this Court), were rendering similar duties and responsibilities, as

were being discharged by regular employees, holding the same/corresponding posts. This exercise would require the application of the parameters of

the principle of 'equal pay for equal work' Page 101 101 summarized by us in paragraph 42 above. However, insofar as the instant aspect of

the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel

representing the State of Punjab, that all the temporary employees in the present bunch of appeals, were appointed against posts which were also available in the regular cadre/establishment. It was also accepted, that during the course of their employment, the concerned temporary employees were being randomly deputed to discharge duties and responsibilities, which at some point in time, were assigned to regular employees. Likewise, regular employees holding substantive posts, were also posted to discharge the same work, which was assigned to temporary employees, from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals, were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent-employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State, that any of the temporary employees would not be entitled to pay parity, on any of the principles summarized by us in paragraph 42 hereinabove. There can be no doubt, that the principle of "equal pay for equal work" would be applicable to all the concerned temporary employees, so as to vest in them the right to claim (3 of 3) wages, at par with the minimum of the pay-scale of regularly engaged Government employees, holding the same post. 61. In view of the position expressed by us in the foregoing paragraph, we have no hesitation in holding, that all the concerned temporary employees, in the present bunch of cases, would be entitled to draw wages at the minimum of the payscale (- at the lowest grade, in the regular payscale), extended to regular employees, holding the same post."

3. Consequently, the present writ petition is disposed of with direction to the respondents to consider the representation of the petitioners in terms of aforesaid precedent law as extracted hereinabove. The needful be done within a period of 60 days from today."

Ms. Charu Jain, appears on behalf of the State submits that claim of the petitioner is to be verified with regard to his working and further necessary details are being collected from different offices in the Headquarter for granting them relief if they are eligible as per the direction passed by this Court in the case of Janta Jal Nalkoop Union & Ors. (supra).

Consequently, the present writ petition is disposed of with the direction to the

respondents to consider the representation of the petitioners in terms of the judgment dt.02.02.2018 passed by this Court in the case of Jantal Jal Nalkoop Union & Ors. (supra).

The necessary exercise may be carried out within a period of six weeks.