
(2019) 04 RAJ CK 0060
In the Rajasthan High Court
Case No : Civil Writ No. 15009 Of 2018

Baldev Ram

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 10-04-2019

Acts Referred:

Rajasthan Pension Rules, 1996 — Rule 25, 25(2)

Citation : (2019) 04 RAJ CK 0060

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : S.K. Verma, Piyush Bhandari

Final Decision : Allowed

Judgement

Learned counsel for the petitioner submits that the issue raised in the present writ petition is squarely covered by judgment of this Court in Ashok Kumar Sharma v. State of Rajasthan & Ors.: S.B.C.W.P. No. 15411/2018, decided on 14.03.2019.

Learned counsel appearing for the respondents is not in a position to dispute the submissions made by learned counsel for the petitioner.

In the case of Ashok Kumar Sharma (supra) this Court, inter alia, concluded and directed as under:-

"However, in view of the fact that in case of Dhanraj Meena (supra) / Virender Singh (supra), the candidates had not resigned and they were relieved under the directions of the Court and the present petitioners had resigned from previous service, their cases are sought to be distinguished. Such distinction is contrary to the express provisions of Rule 25 of the Rules of 1996, which reads as under:-

"Rule 25. Forfeiture of service on resignation

(1) Resignation from a service or a post, entails forfeiture of past service.

(2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies.

(3) Interruption in service in a case falling under sub-rule (2), due to the two appointments being at different stations, not exceeding the joining time admissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government service on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to him."

A bare look at sub-Rule 2 of Rule 25 reveals that even if a resignation is given to take up with proper permission, another appointment under the Government, where the service qualifies, the same does not entail forfeiture of past service and in those circumstances, the stand sought to be taken by the respondents on account of the resignations given by the petitioners, cannot be sustained.

Even in cases, where it is submitted that permission was not taken, in view of the fact that the Circular dated 9.8.2018 (Annex.R/1) does not make any distinction in the case of resignation and as the petitioners instead of approaching the Court as in the case of Dhanraj Meena & ors. (supra) were forced to resign, they cannot be discriminated.

So far as the fact that in cases where permission was granted to the petitioners indicating restrictions is concerned, as the restrictions indicated are de hors the Rules and specifically Rule 25(2) of the Rules of 1996, cannot take away the benefits of the petitioners as conferred under the statute.

In view of the above factual and legal position, merely on account of petitioners have tendered resignation, they cannot be deprived of the benefit of counting of their past services.

In view of the above discussion, the writ petitions filed by the petitioners are allowed. The petitioners would be entitled to same relief as granted in the case of Dhanraj Meena (supra) / Virender Singh (supra) as per Circular dated 9.8.2018 (Annex.R/1).

Needful may be done by the respondents within a period of two months from today.

No order as to costs."

In view of the above fact situation, the writ petition filed by the petitioner is allowed in light and with similar directions as given in the case of Ashok Kumar Sharma (supra).