

(2010) 05 RAJ CK 0029
In the Rajasthan High Court

Balu and Others

APPELLANT

Vs

Municipal Council and Another
 Om Prakash and
Others Vs State and Another

RESPONDENT

Date of Decision : 04-05-2010

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2010) 05 RAJ CK 0029

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vineet Kothari, J.—The petitioners in these two writ petitions are claiming regular pay scales on the post of Beldar (Class IV), who were employed by the Municipal Council, Bhilwara.

2. The petitioners came to this Court with the case that their juniors, who were employed later on as such on daily wages basis were granted regular pay scales w.e.f. 1993, whereas, even though the petitioners were working as Beldars on daily wages basis from the prior period, they were not accorded the regular pay scales and, therefore, the present writ petitions were filed by four of the writ petitioners in S.B. Civil Writ Petition No. 978/1997 and eight of the writ petitioners in S.B. Civil Writ Petition No. 4773/1992.

3. The respondent Municipal Council, Bhilwara in the reply filed by them to the writ petition in para No. 7 of the reply have submitted that the answering respondent-Municipal Council has already recommended the case of petitioners to the State Govt. for sanction (for grant of regular pay scales to the petitioners) but without receiving sanction from the State Govt. no action can be taken for grant of regular pay scale to the petitioners by the answering respondent.

4. Learned Counsel for the respondent Municipal Council Mr. Yashwant Mehta states before this Court that such regular pay scales were given in the year 1999

when the sanction thereto was accorded by the State Govt. vide order dated 12/7/1999 (Annex.R/1 order in SBCWP No. 978/97). Thus, the grievance of the present petitioners for grant of regular pay scales from the year 1993 when their juniors were so given the regular pay scales, still remains.

5. Learned Counsel for the State has been seeking time in the present writ petitions for producing the necessary sanction/order in this regard. Such time was granted by this Court on 16/4/2009, 23/4/2009, 8/9/2009 and 29/10/2009 and, thereafter, also the matter kept on getting adjourned for one reason or the other, even today when the matters were taken up for final hearing, the day being set apart for hearing of old matters only and the writ petitions are listed as first case in the hearing category at serial No. 3 in the cause list, learned Counsel for the State sought further time and informed the Court that the officer-in-charge has not yet contacted her and reached the Court and, therefore, she prays for further time to file necessary information before this Court.

6. Such a lethargic attitude on the part of the State officials can hardly be appreciated and it is high time that officer-in-charge, who deals with such cases is personally held liable and saddled with exemplary cost so that they start taking the Court proceedings more seriously and in right earnest.

7. On the merits of the case, there appears to be no dispute from the side of the respondents that juniors to the petitioners were given the regular pay scales from the year 1993, whereas, the present petitioners were not so accorded the regular pay scales from the year 1993 until vide Annex.R/1 order dated 12/7/1999 the sanction was received from the State Govt. No reason has been supplied by the State Govt. by any additional affidavit or counter to the writ petition showing any reason for according such sanction from the year 1999 only and not considering the case of petitioners for grant of regular pay scales from the year 1993 itself when the juniors to the petitioners were so given the benefit of grant of regular pay scales. It further appears that the Municipal Council, Bhilwara wanted to accord the regular pay scales to the petitioners and also recommended the cases of petitioner for the said purpose to the State Govt. but awaiting such sanction they could not grant the benefit of regular pay scales to the petitioners. In fact the interim order was passed in writ petition No. 4733/92 on 10/9/1992 by the then learned Single Judge of this Court that the respondents shall pay the petitioners minimum of pay scale admissible to Beldar along with admissible allowances. In pursuance of the same, an order dated 23/6/1993 appears to have been issued by the Deputy Secretary of the Department of Local Self Government giving sanction for the said minimum of pay scales with allowances to 13 of the Beldars in question. A copy of the order dated 23/6/1993 supplied by learned Counsel for the Municipal Council, Bhilwara is taken on record.

8. Be that as it may, there appears to be no justification on the part of respondent State not to accord sanction to the Municipal Council, Bhilwara for grant of regular pay scales to the petitioners also from the year 1993, the date

when the persons junior to the petitioners were so given the regular pay scales.

9. Since no cogent reason has been given by the State Government in not doing so, this Court allows this writ petition and directs the respondents to give regular pay scale to the present petitioners from the year 1993 from the respective date when the persons junior to the petitioners were so given the regular pay scales so that fairness and equality is restored and the mandate of the Constitution as enshrined in Article 14 of the Constitution of India is not allowed to be violated by the respondents.

10. Consequently, this writ petition is allowed with cost of Rs. 2000/- which shall be borne by the officer-in-charge of the respondent State, who has failed to supply the requisite information by way of additional affidavit despite lapse of period of one year for which time was sought by the learned Counsel for the State before this Court. The difference of amount of pay, if any, shall be paid to the petitioners within a period of six months from today.