

(2010) 02 RAJ CK 0076
In the Rajasthan High Court

Banshi Lal and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 26-02-2010

Acts Referred:

Citation : (2010) 02 RAJ CK 0076

Hon'ble Judges : Prakash Tatia, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prakash Tatia, J.—Heard learned Counsel for the parties.

2. The petitioners are seeking their regularization on the post of Gram Sewak and challenging the date fixed as 31.12.1985 in the notification dated 7.3.1989 because only persons who have been appointed by that time i.e., 31.12.1985 alone can have regularization of their services.

3. As per the facts, the petitioners are appointee on the post of Gram Sewak, but after 31.12.1985 they were appointed for 6 months or till regularly selected candidates are made available. The petitioner's services were terminated by orders dated 20.1.1988 and 15.6.1988 without there being availability of any regularly selected candidate. The petitioners then preferred separate writ petitions Nos. 1850/1988, 1851/1988, 1863/1988, 1834/1988 and 1835/1988 to challenge the said orders dated 20.1.1988 and 15.6.1988. The petitioner's those writ petitions were allowed by the common judgment dated 7.9.1995 on the ground that petitioner's services cannot be terminated in view of the fact that even by the time of decision of the said writ petition in the year 1995, no regular selected candidate was made available to replace the petitioners. This Court in the judgment dated 7.9.1995 made very clear that it will be open for the respondents to terminate the services of the petitioners as and when regularly selected candidates are made available for the appointment to the post of Gram Sewaks. In spite of this liberty, the respondents, admittedly, could not process

for giving appointment on the post of Gram Sewaks in regular process. The petitioners now with voluntary inaction of the respondents are continuing in service and completed almost 25 years. The petitioner's services, therefore, sought to be terminated in view of the notification dated 17.3.1989 again as they are not having in the zone of consideration for regularization as they are appointee after 31.12.1985. The position was same as was in the year 1988 when petitioner's services were sought to be terminated on the ground that they are ad hoc temporary appointee and this Court between the parties have already declared that the petitioner's services cannot be terminated in this manner and that too when there is no regularly selected candidate to replace the petitioners. The respondents could have obtained the regularly selected candidates, but for the reasons best known to them did not choose to start the process for regular selection of the candidate to replace the temporary ad hoc appointee and allowed them to continue voluntarily for such a long period. The issue has already been considered by the Hon''ble Apex Court in the case delivered in Secretary, State of Karnataka and Others Vs. Umadevi and Others, and said judgment has already been considered in subsequent judgments of the Hon''ble Supreme Court explaining all the situations.

4. It is absolutely unjust to terminate the services of the petitioners by one stock of pen after their continuance service of 25 years. The respondents themselves clearly admitted in the reply to the writ petition that they assailed the judgment of this Court dated 7.9.1995 by preferring the special appeal before the Division Bench of this Court which was dismissed and thus, the Division Bench of this Court also upheld the decision of the learned Single Judge wherein it has been provided that the respondents may be free to replace the petitioners provided regularly selected candidates are made available.

5. In view of the above reasons, this writ petition deserves to be allowed, hence, allowed. The respondents are directed to consider the case of the petitioners for regularization on the post of Gram Sewak irrespective of the fact that they are appointee after the cut out date i.e. 31.12.1985. The consideration be made in consonance with the judgment the Hon''ble Supreme Court referred above and subsequent judgments wherein the position has been made more clear. The process be completed within a period of three months from the date of receipt of the copy of this order, which may be supplied by the petitioner to the competent authority.