
(2015) 02 RAJ CK 0011
In the Rajasthan High Court
Case No : Civil Writ Petition No. 877/2008

Bhagwati Lal	Vs	APPELLANT
State of Raj and Others		RESPONDENT

Date of Decision : 11-02-2015

Acts Referred:

Citation : (2015) 02 RAJ CK 0011

Hon'ble Judges : Sandeep Mehta, J.

Bench : Single Bench

Advocate : Shreyansh Mardia for Pradeep Shah, for the Appellant; Manish Patel, Advocates for the Respondent

Final Decision : Allowed

Judgement

Sandeep Mehta, J.—Heard learned counsel for the parties.

2. By way of the instant writ petition, the petitioner has prayed for the following reliefs:--

"a) the respondents be directed to grant the annual grade increment due to the petitioner after year 2001.

b) The respondents be directed to grant the first selection grade to the petitioner after completion of 9 years of satisfactory service in accordance with the circular dt. 25/1/1992 issued by the State Government

c) The interest @ 18% per annum upon the delayed payment be granted to the petitioner."

3. Facts in brief are that the petitioner was regularly appointed on the post of Gram Sewak in the Panchayat Samiti, Mandalgarh in the year 1997. It appears that a criminal case came to be registered against him in the year 2001, on which he was placed under suspension and a departmental enquiry was also initiated against him. The petitioner's suspension was revoked by order Annex. 2 dated 30.8.2003. The petitioner claims by way of the instant writ petition that for

the last 14 years, he has not been given the benefit of even a single annual grade increment and the selection scales admissible to him as a matter of right have also been withheld without any justification.

4. Learned counsel for the petitioner contends that annual grade increments or the selection scale can only be withheld in the event of a punishment being imposed upon the employee after following the procedure prescribed under the CCA Rules of 1958. While referring to Rule 29 of the Rajasthan Service Rules, he contends that the increments as and when become due, are incidental to service and are to be drawn as a matter of course, unless withheld under an order passed after following due process of law. He contends that as no order withholding the annual grade increments admissible to the petitioner has been passed in any departmental proceeding, the action of the departmental authorities in withholding the annual grade increments and the selection scales otherwise admissible as per law is unjust, arbitrary and unconstitutional. He prays that the writ petition deserves to be accepted with a direction to the respondent authorities to release the annual grade increments and also to grant benefit of the selection scales to the petitioner from the date such benefits accrued. He further prays that for the period during which the said benefits were withheld without any justification, the petitioner is also entitled to interest on the accrued amount.

5. Per contra, learned counsel for the respondents opposes the submissions made on behalf of the petitioner. He contends that the petitioner was placed under suspension on 20.4.2001 and was reinstated vide order dated 30.8.2003. He contends that a criminal case was registered against the petitioner in the Court of A.C.J.M., Mandalgarh, which is still pending. The petitioner was reinstated in service subject to the final decision of the criminal case and thus, as per him, the other service benefits were rightly withheld from the petitioner. He, therefore, prays that the writ petition, being devoid of any merits, deserves to be dismissed. He, however, frankly concedes that to the best of his knowledge, no order withholding the increments or selection scales falling due to the petitioner has been passed in any departmental proceedings till date.

6. Heard and considered the arguments advanced at the Bar and perused the material available on record.

7. The financial benefits which accrue to a Government servant as an incidence of service have to be paid to him as and when the same became due. Withholding of the financial benefits is only permissible as per law. Rule 29 of the Rajasthan Service Rules stipulates that the annual grade increments are to be paid to the employee as a matter of course as and when the same are applied. Withholding of annual grade increments is only permissible on the strength of a lawful order being passed by the competent disciplinary authority after holding a departmental enquiry under the C.C.A. Rules of 1958. In the case at hand, it is undisputed that the action of the respondents in withholding the annual grade increments and the selection scales admissible to the petitioner was not under

any order passed against the petitioner after holding an inquiry under the C.C.A. Rules. Thus, the action of the respondents in withholding these benefits from the petitioner is unjust, arbitrary, perverse and unconstitutional. Accordingly, the petitioner is entitled to the relief of all the monetary benefits as prayed for in the writ petition.

8. Furthermore, for the period for which the petitioner has been unjustly deprived of the amount, he is also entitled to receive interest on the same. At this stage, Mr. Manish Patel, learned Addl. Govt. Counsel raised a plea that the petitioner is guilty of concealing a material fact in as much as, a criminal case was registered against him. As per the Pay Scale Rules, the pay benefits can be withheld on account of the service of the employee being unsatisfactory. Suffice it to say that the registration of a criminal case in itself cannot be a ground to impute the allegation of unsatisfactory service so as to deny the monetary benefits otherwise accruing to the employee unless a specific order is passed under the provisions of C.C.A. Rules for withholding such benefits. Rule 7 of the Pay Scale Rules, on which heavy reliance was placed by Mr. Manish Patel, has no application to the present case because the said Rule provides that the benefits can be withheld in the event of service record of the employee being found unsatisfactory. The service record would be treated as unsatisfactory only upon such an entry being made in the A.C.R. of the employee after he is found guilty in a departmental enquiry. Admittedly, no such entry has been made in the petitioner's A.C.R.

9. As an upshot of the above discussion, the instant writ petition deserves to be and is hereby allowed. The respondents are directed to forthwith release all the accrued monetary service benefits to the petitioner treating him to be in continuous service from the date such benefits were withheld. The amount due shall be paid to the petitioner within a period of two months from the date of this order and shall carry interest at the rate of 6% per annum from the date of accrual till the date of payment, failing which the interest shall be enhanced to 12% per annum.

10. For recovery of the extra burden with which the State would be encumbered due to the order passed by this Court, the respondent authorities shall be under an obligation to hold an enquiry against the officer/officers concerned who were responsible for withholding the service benefits of the petitioner without following mandatory provisions of law.

11. No order as to cost.