
(2019) 01 RAJ CK 0214
In the Rajasthan High Court
Case No : Civil Writ No. 1325 Of 2019

Brahamdev Pareek And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 29-01-2019

Acts Referred:

Citation : (2019) 01 RAJ CK 0214

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Dharmendra Surana, Himmat Jagga

Final Decision : Disposed Off

Judgement

The writ petition has been filed by petitioners seeking following reliefs:

"i. by an appropriate writ, order or direction, the respondents may kindly be directed to grant the benefit of proper pay fixation in appropriate pay scales at par with the teachers selected in pursuance of the selection process of Teacher Grade II Examination, 2011;

ii. by an appropriate writ, order or direction, the respondents may kindly be directed to grant the benefit of annual grade increments from the date on which the teachers selected in pursuance of the selection process of Teacher Grade II Examination, 2011 have been received the same;

iii. by an appropriate writ, order or direction, the respondents may kindly be directed to grant all other benefits to the petitioners which have been received by the Senior Teachers selected in pursuance of the selection process of Teacher Grade II Examination, 2011;

iv. Any other appropriate writ, order or direction which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioners.

v. Any other appropriate writ, order or direction which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioners.

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

It is submitted by learned counsel for the petitioners that the issue raised in the present writ petition is squarely covered by judgment of this Court in Manoj Khandelwal & Ors. v. State of Rajasthan & Ors. : S.B.C.W.P. No. 7283/2014, decided on 16.07.2014 at Jaipur Bench and the said judgment has been followed in Krishan Lal & Ors. v. The State of Rajasthan & Ors. : S.B.C.W.P. No. 19179/2017, decided on 30.10.2017 at Jaipur Bench, and therefore, the petitioners are also entitled to the same relief as granted in the case of Manoj Khandelwal (supra) and Krishan Lal (supra).

In view of the submissions made, the writ petition filed by the petitioners is disposed of with the similar directions as given in the case of Manoj Khandelwal (supra), which read as under:-

"This Court in Suman Bai and Another Vs. State and Others - 2009 (1) WLC (Raj.) 381, held that candidates in lower order of merit cannot become entitled merely because they had approached court earlier. Petitioners had a fresh cause of action for approaching in such situation and their writ petition not barred either as res judicata or as being him in properly constituted. This directed the respondents to treat petitioners senior to respondents, who were in lower order of merit.

It is further contended in the writ petition that in the matter of School Lecturers (English) in the same Department, where appointments were delayed because of the fault of the State authorities, the candidates were accorded appointment from the date the candidates stood lower in merit were appointed and they have been granted all consequential benefits of services.

The petitioners approached the respondents by way of representations for extending them same benefits of service which have been granted to the candidates who stood lower in merit than the petitioners, but till date nothing has been done. Hence, this writ petition on behalf of the petitioners for a direction to the respondents to treat their appointment from the date the candidates lower in merit, were given, with all consequential benefits of service, such as seniority, continuity of service, pay fixation, grant of annual grade increments.

Having regard to the facts of the case, writ petition is disposed of requiring the petitioners to make a representation to respondent no.2 - Director, Secondary Education, Bikaner, alongwith a copy of this order, who shall, after verifying the facts stated above, consider and decide the same by a speaking order within a period of three months from the date of its making, addressing the grievance of the petitioners for extending them the relief as prayed for, as the candidates,

who stood lower in merit, are getting benefit of higher pay, seniority, annual grade increments and other service benefits including the selection scales. If the respondent no.2 decides to place the petitioners above in seniority than the candidates who stood lower in merit, then the petitioners would be entitled to all benefits of seniority but they would be entitled only to notional benefits.