

(2023) 05 RAJ CK 0009

In the Rajasthan High Court

Case No : Civil Writ Petition No. 8557, 11384 Of 2022

Deep Shikha Trivedi And Others

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 01-05-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2023) 05 RAJ CK 0009

Hon'ble Judges : Vinit Kumar Mathur, J

Bench : Single Bench

Advocate : Vikram Singh Bhati, P.R.S. Jodha, Mohit Singh

Final Decision : Dismissed

Judgement

Vinit Kumar Mathur, J

Heard learned counsel for the parties.

Since the present writ petitions are based on identical facts and common point of law, therefore, they are being disposed of by this common order.

Learned counsel for the petitioners has placed reliance on the Single Bench judgment of this Court in the case of Mooli Devi Choudhary & Ors. V/s State of Rajasthan & Ors. decided on 25.08.2010, wherein directions were issued by the co-ordinate Bench that the Teachers and other related staff in SSA or KGBV cannot be treated as employees of the private placement agencies and in the case of Tony Meghwal & Ors. V/s State of Rajasthan & Ors. decided on 21.01.2021 (amended vide order dated 10.08.2021), whereby the services of the persons placed through placement agencies were ordered to be placed directly through the department. He, therefore, prays that the present writ petitions may kindly be allowed.

Per contra, learned counsel for the respondents submits that the controversy involved in the present case is squarely covered by the judgment of Single Bench

of this Court rendered in S.B. Civil Writ Petition No.15560/2021 (Lalit Kumar & Ors. V/s State of Rajasthan & Ors.) decided on 25.04.2022, wherein reliance has been placed on the judgment of the Jaipur Bench of this Court rendered in the case of S.B. Civil Writ Petition No.6232/2019 (Deepak Kumar Gupta & Ors. V/s State of Rajasthan & Ors.) decided on 06.04.2022. Since, the controversy in the present case is with respect to the fact that the petitioners who are working on different positions in the respondent-department on the basis of a contractual agreement executed between the concerned authorities and the placement agencies, the prayer made in the writ petitions with respect to the regularization, equal pay and equal work and for a direction that they should be appointed directly by the respondent-department, has already been considered by the Single Bench in the case of Deepak Kumar Gupta(supra). He, therefore, prays that the writ petitions may be dismissed in the light of Single Bench judgment of Deepak Kumar Gupta(supra).

I have considered the submissions made at the Bar and gone through the relevant record of the cases.

The controversy involved in the present case has been discussed at the threadbare by the Single Bench in the case of Deepak Kumar Gupta(supra) and considering the said judgment, a Co-ordinate Bench of this Court in the case of Lalit Kumar(supra) has dismissed the writ petition vide order dated 25.04.2022 in the following terms :-

"In the case of Deepak Kumar Gupta (supra), the Coordinate Bench after dealing with large number of orders/ judgments cited, came to the following conclusion:

"14. Admittedly, there is no relationship of employee and employer between the petitioners and the respondents as the offer of appointment was given to the petitioners by the placement agency and the salary/remuneration was also paid to the petitioners by the placement agency. Initially, the contract was for a period of one year and the term of petitioners' services was further extended from time to time by the placement agency. The Rules of 2022 referred by the counsel for the petitioners relate to the persons appointed by the State Government on contract basis through public advertisement and admittedly the petitioners were not engaged as contractual employees directly by the State Government rather were appointed by the placement agency, as such the Rules of 2022 are not at all applicable in the case of the petitioners.

15. In view of the above discussion, these writ petitions filed by the petitioners deserve to be dismissed for the reasons; firstly, the petitioners have failed to establish their relationship of employee and employer with the respondent-State and only narration in the petition cannot be considered to be a justifiable ground to grant the relief prayed for, unless it is supported by cogent evidence on record as has been held by the Hon'ble Supreme Court in the matter of K.K. Suresh (supra); secondly, as per own version of the petitioners, they were appointment by the placement agency but failed to implead the placement agency as party

respondent in the writ petitions; thirdly, the salary/remuneration was also paid to the petitioners by the placement agency and not by the State Government; and lastly claim of the petitioners for regularisation in the State cannot be approved by this court as the petitioners were never appointed by the State Government against sanctioned post on regular basis, rather, as already observed above they were appointed by the placement agency; therefore, in the facts and circumstances, the petitioners have completely failed to make out a case against the respondents, as such I am not inclined to exercise the jurisdiction of this court under Article 226 of the Constitution of India.

16. As a result of the aforesaid discussion, these writ petitions fail and are hereby dismissed. A copy of the order be placed in each connected file.”

The cases of the petitioners, and the prayers made are not different from what was prayed for in the case of Deepak Kumar Gupta (supra) and as such the issue raised, already stands answered by a Coordinate Bench in the said case.

So far as the purported directions in the case of State of Rajasthan & Ors. vs. Ranglal & Ors. (supra) relied on by the petitioners are concerned, the said order, inter-alia, reads as infra:

“3. This Court is of the opinion that the State should evolve a mechanism of directly remitting the amounts of minimum wages to the concerned contract workers, whose details and particulars – including bank account etc. are maintained by the contractor/agency and supplied to it. This would in no way alter the inter se relationship between the contractor and his/its employees.

4. The writ petitioners’ counsel argues that the State should ensure that the arrangement in the contract is directly between the employee who work and State itself. He highlighted that in some instances, the State has resorted to direct engagement of contract workers.

5. This Court is unable to issue such a direction. The manner in which the State organizes its arrangements depends upon the exigencies of the time. In these circumstances it would be impossible to direct that a particular mode or method only should be adopted; the State may resort to direct engagements itself or may resort to employment of contract workers through placement agency/contractor, in accordance with law.

6. The appeal is disposed of in the above terms.”

A perusal of the above, would reveal that the Court had only expressed opinion that the State should evolve a mechanism of directly remitting the amounts of minimum wages to the concerned contract works and also came to the conclusion that no directions as prayed for regarding State entering into direct contract with the employees could be issued. The Division Bench also opined that the manner in which the State organizes its arrangements depends upon the exigencies of the time, which includes resorting to the direct engagement or through placement agencies.

None of the directions given by the Division Bench, requires the State to directly make the payments to the petitioners, as sought to be argued. Further submissions made regarding violation of the provisions of Minimum Wages Act, Employees Provident Fund Act and Employees State Insurance Act by the placement agencies, are essentially independent causes to the petitioners, for which the remedy is available under various laws against the placement agencies, for which this Court, at this stage, is not required to issue any direction.

In view of above, following the dictum in the case of Deepak Kumar Gupta (supra), no case for interference is made out in the petitions, the same are therefore, dismissed.”

The controversy involved in the present case is squarely covered by the judgment passed in the case of Lalit Kumar(supra). In the facts and circumstances, reliance placed by the learned counsel for the petitioners in the cases of Mooli Devi Choudhary(supra) & Tony Meghwal(supra) are not applicable of the present case, therefore, the present writ petitions are bereft of merit and the same are dismissed.

The stay application as well as other pending applications, if any, shall stand dismissed.