

(2019) 05 RAJ CK 0261
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9695 Of 2019

Dinesh Kumar Chobey And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 31-05-2019

Acts Referred:

Rajasthan Civil Services (Revised Pay Scale) Rules, 2008 — Rule 3, 14
Constitution Of India, 1950 — Article 14, 16

Citation : (2019) 05 RAJ CK 0261

Hon'ble Judges : Mohammad Rafiq, J; Narendra Singh Dhaddha, J

Bench : Division Bench

Advocate : Giriraj Rajoriya, Ram Pratap Saini

Final Decision : Disposed Off

Judgement

The writ petition has been filed by the petitioners inter alia with the prayer that Rule 14 of the Rajasthan Civil Services (Revised Pay Scale) Rules, 2008 (for short 'the Rules of 2008') be declared ultra vires and unconstitutional, being violative of Articles 14 and 16 of the Constitution of India and the respondents be directed to grant benefit of relaxation, as enumerated under Rule 3 of the Rules of 2008 to the petitioners and they be granted annual grade increment from the date, on which similarly situated persons have been granted, i.e., from 01.07.2010.

During the course of arguments, Mr. Giriraj Rajoria appearing on behalf of Mr. Ram Pratap Saini, learned counsel appearing on behalf of the petitioners has submitted that he does not press the challenge to Rule 14 of the Rules of 2008 on peculiar facts of this case, provided the State Government is directed to consider petitioners' case for grant of one time relaxation to them.

Selection of the petitioners as Upper Primary Teachers was made with the Primary Teachers. Candidates of both the categories appeared in the common written examination and participated in process of selection. Common merit list was prepared, but the appointments were given on the basis of qualification/

eligibility of the candidates. Appointments of the Primary Teachers were made on 24.09.2007, but the State Government delayed appointments of the petitioners as Upper Primary Teachers and eventually their appointment orders were issued on 01.01.2008. In between, State Government vide notification dated 12.09.2008 promulgated Rajasthan Civil Services(Revised Pay Scale) Rules, 2008. According to Rule 14 of the Rules of 2008, batch of the candidates appointed on the post of Primary Teachers received increment on 01.07.2010 since they completed one year probation period after their appointment before the applicability of the aforesaid notification, but in the case of petitioners, since their appointment was delayed, they could not complete their probation and their increment would be delayed by one year and would be payable on 01.07.2011.

Learned counsel has invited attention of the Court towards Rule 3 of the Rules of 2008, where the Governor retains the power to relax the rule in the case of undue hardship in any particular case. Prima facie, we are satisfied that it is a case of hardship, but since the State Government has not examined this matter, we refrain from expressing any further opinion, except requiring the State Government to have the case of the petitioners examined for grant of one time relaxation, so as to consider their case and bring them at par with the Primary Teachers appointed in the same process of selection held in pursuance of same advertisement by granting them one increment, may be notionally, with effect from 01.07.2010 considering that they were actually in service on that date and even prior thereto.

We, therefore, direct the State Government to undertake necessary exercise and pass appropriate order with regard thereto within a period of four months from the date of production of copy of this order. It goes without saying that in case grievances of the petitioners are not remedied, the petitioners would be at liberty to file fresh writ petition with the same prayer as made in the present writ petition and also incorporating challenge to the order that may be passed by the State Government.

With the aforesaid direction, writ petition stands disposed of.