

(2020) 01 RAJ CK 0086

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1043, 4079 Of 2017, 16913 Of 2019

Dr. Gaurav Sharma And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 20-01-2020

Acts Referred:

Citation : (2020) 01 RAJ CK 0086

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Satya Prakash Sharma, Mahesh Chandra Bishnoi, Rajesh Poonia, Salman Agha, Anil Kumar Gaur

Final Decision : Disposed Of

Judgement

1. The present writ petitions have been filed claiming the following reliefs :

"(a) By an appropriate writ, order or direction in the nature thereof, the respondents No.1 to 6, may kindly be directed to regularise services of the petitioners on permanent basis on the post of Veterinary Officers, by taking into account their services rendered on the post since year 2013 and on the basis of written test passed by them, conducted by the respondent RPSC and to grant them benefit of regular pay scale with all admissible service benefits at par with regular employees.

(b) By an appropriate writ, order or direction in the nature thereof, the respondents may kindly be restrained from dispensing with or terminating services of petitioners from the post of Veterinary Officers and petitioners be allowed to continue on the said post, with regular pay scale to the post in light of the decision of the Hon'ble Supreme Court of India rendered in the case of State of Punjab & Ors. Vs. Jagjit Singh & Ors, reported in AIR (SC) 5176, in same terms.

(c) By an appropriate writ, order or direction, the writ petition filed by the petitioners may kindly be allowed in terms of decision so rendered by this

Hon'ble High Court in DB Special Appeal (Writ) No.1091/2000 titled Dr. Abhijit Sutradhar & Ors. Vs. State of Rajasthan & Ors. decided on 18.04.2002, with the same direction and petitioners may kindly be paid regular salary in same manner at par with Veterinary Officers appointee of the year 1998, who are not yet appointed through RPSC in regular cadre.

(d) By an appropriate writ, order or direction in the nature thereof, the method of selection adopted by the respondent RPSC for making selection of the Veterinary Officers against advertisement dated 02.05.2013 only on the basis of interview alone, may kindly be held to be unreasonable and illegal, consequently the respondent RPSC may kindly be directed to recommend names of petitioners for appointment on the post of Veterinary Officers, by taking into account their marks scored in the written test, against the vacancies, left unfilled in the aforesaid advertisement.

(e) And in alternate, if deemed fit, by an order, writ, order or direction, in the nature thereof, the respondent Department of Animal Husbandry, may kindly be directed to absorb services of petitioners against regular post, by taking into consideration their long services on the post and on the basis of selection process faced by the petitioners, against regular post and respondent RPSC may kindly be directed to recommend their names for regular absorption, on the ground of passing of written test conducted by the respondent RPSC.

(f) Any other appropriate order or direction, which this Hon'ble Court considers just and proper in the facts and circumstances of this, may kindly be passed in favour of the petitioners."

2. Though the petitioners have claimed regularisation also, however, after arguing for some time, Mr. Sharma, learned counsel for the petitioners, submits that he abandons such relief at this juncture and the petitioners would be satisfied if the respondents pay them amount equal to the minimum pay scale available to Veterinary Officers.

3. The facts are not in dispute that the petitioners were selected pursuant to the advertisement dated 14.03.2013, issued for filling up the post for Veterinary Officer on urgent temporary basis for a fixed sum of Rs.16,800/- per month. In pursuance of the advertisement aforesaid, the petitioners were selected and accorded appointment vide order dated 19.09.2013 for a fixed monthly salary of Rs.16,800/- for a period of one year or untill regularly selected candidates from Rajasthan Public Service Commission are available.

4. There is no quarrel on the fact that the petitioners are continuing as Veterinary Officers.

5. Petitioners are aggrieved because they are being paid a sum of Rs.39,300/-, whereas the regularly selected Veterinary Officers are getting much higher salary.

6. Claiming equal pay for equal work, learned counsel for the petitioners contended that both the sets of employee perform the same work, hence should

be paid equally.

7. Learned counsel for the respondents refuting such claim, submitted that petitioners cannot claim equal pay as available to the regularly selected candidates, inasmuch as their appointments were in furtherance of an altogether different process and their terms of employment contained in order dated 19.09.2013 provides only a fixed monthly remuneration.

8. It was argued that the petitioners have with their wide eyes open accepted such engagement and thus, they cannot claim payment equal to what is being drawn by a regularly selected Veterinary Officer.

9. Mr. Sharma, while relying upon the judgment of Hon'ble Supreme Court in the case of State of Punjab Vs. Jagjit Singh reported in (2017) 1 SCC 148, submitted that in view of the para Nos.54 & 55, the petitioners are also entitled to at least minimum of the pay scale, which the regularly selected Veterinary Officers is getting.

10. Another judgment was relied upon by Mr. Sharma rendered by Division Bench of this Court in the case of Smt. Uji Devi Vs. State of Rajasthan & Ors. (DB Special Appeal Writ No.883/2015) decided on 17.04.2018, to submit that the petitioners are entitled to minimum of the pay scales at least from the date of judgment of Hon'ble Supreme Court i.e. 26.10.2016.

11. Operative portion of the observations made by Division Bench reads thus :

"In view of aforesaid discussion and considering the above judgments of Hon'ble Apex Court, the instant appeal is hereby allowed and the orders impugned dated 05.08.2015 passed by learned Singh Judge in Review Petition No.106/2014 and the order dated 07.01.2014 passed in SBCWP NO.895/2013 whereby the learned Single Judge disposed of the writ petition, are hereby quashed and set aside qua the appellant and the respondents are directed to consider the case of the appellant/writ petitioner for regularisation in accordance with law and grant regular minimum of the pay scale at least from the date of judgment of Apex Court in the case of State of Punjab Vs. Jagjit Singh (supra). The arrears may be given to the appellant/writ petitioner within a period of three months from the date of receipt copy of this judgment.

12. Heard.

13. This Court is of the considered opinion that the petitioners are entitled for minimum of the pay scale, which the regularly selected candidates are drawing, in light of judgment of Hon'ble the Supreme Court in the case of State of Punjab Vs. Jagjit Singh (supra). Operative portion contained in para No.57 & 58 is being reproduced hereinfra :

"57. Having traversed the legal parameters with reference to the application of the principle of 'equal pay for equal work', in relation to temporary employees (daily-wage employees, ad-hoc appointees, employees appointed on casual

basis, contractual employees and the like), the sole factor that requires our determination is, whether the concerned employees (before this Court), were rendering similar duties and responsibilities, as were being discharged by regular employees, holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of 'equal pay for equal work' summarized by us in paragraph 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals, were appointed against posts which were also available in the regular cadre/establishment. It was also accepted, that during the course of their employment, the concerned temporary employees were being randomly deputed to discharge duties and responsibilities, which at some point in time, were assigned to regular employees. Likewise, regular employees holding substantive posts, were also posted to discharge the same work, which was assigned to temporary employees, from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals, were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent-employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State, that any of the temporary employees would not be entitled to pay parity, on any of the principles summarized by us in paragraph 42 hereinabove. There can be no doubt, that the principle of 'equal pay for equal work' would be applicable to all the concerned temporary employees, so as to vest in them the right to claim wages, at par with the minimum of the pay-scale of regularly engaged Government employees, holding the same post.

58. In view of the position expressed by us in the foregoing paragraph, we have no hesitation in holding, that all the concerned temporary employees, in the present bunch of cases, would be entitled to draw wages at the minimum of the pay-scale (- at the lowest grade, in the regular pay- scale), extended to regular employees, holding the same post."

14. So far as the directions given by Division Bench in Smt. Uji Devi's case (supra) are concerned, similar directions i.e. payment from the date of decision of Hon'ble the Supreme Court, in considered opinion of this Court cannot be given, inasmuch as Smt. Uji Devi had approached the Court in the year 2015 itself, even before the judgment of Hon'ble the Supreme Court given in Jagjit Singh's case; whereas the present petitioners have approached this Court much after the judgment rendered by Hon'ble the Supreme Court - SB Civil Writ Petition No.1043/2017 (Dr. Padam Bhusan Sharma & Ors. Vs. State of Rajasthan & Ors.) was filed on 21.01.2017; SB Civil Writ Petition No.16913/2019 (Dr. Gaurav Sharma & Ors. Vs. State of Rajasthan & Ors.) was filed on 04.11.2019; and SB Civil Writ Petition No.4079/2017 (Dr. Vikram Bhati & Ors. Vs. State of Rajasthan & Ors.) was filed on 07.04.2017.

15. In view of the aforesaid, the present writ petitions are disposed of with a direction to the respondents to give minimum of the pay scale to the petitioners without any allowances from the date, when the petitioners filed the writ petition(s).

16. The respondents shall pay the arrears for such period by 31.03.2020, however, their pay will be matched with minimum of the pay scale w.e.f. 01.02.2020.

17. The stay applications are also disposed of.