

---

**(1991) 11 RAJ CK 0007**

**In the Rajasthan High Court**

**Case No : Civil Writ Petition No. 4985 of 1991**

Gopal Ram and Others

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

---

**Date of Decision : 14-11-1991**

**Acts Referred:**

Constitution of India, 1950 — Article 226, 300A

**Citation :** (1991) 2 RLW 137 : (1992) 3 WLC 595 : (1991) 2 WLN 332

**Hon'ble Judges :** G.S. Singhvi, J

**Bench :** Single Bench

**Final Decision :** Allowed

---

## **Judgement**

G.S. Singhvi, J.—A short question which requires determination is as to whether the respondents can withhold payment of salary and allowances to the 9 petitioners who have been appointed in the service of the respondents. Petitioners have made prayer that by issuing an appropriate writ order or direction, the respondents may be directed to make payment of salary with compensation amount plus interest.

2. The facts of the case are that the petitioners have been selected for appointment on various posts advertised vide advertisement dated 21.7.90 (Annexure-1). All the petitioners had been subjected to interview by the competent authority and on having been found suitable, they were appointed on different posts by separate orders issued on 20.8.90, 23.8.90 and 24.12.1990. All the petitioners have joined services and are continuously discharging their duties in the service of the respondents. There is no complaint regarding their performance. However, none of the petitioners have been paid salary right from the dates of their joining the duty. Petitioners have come out with the case that other persons who have been appointed in the service on identical posts are being paid salary in the regular pay scale. Petitioners made representations to the authorities for payment of salary and ultimately served a notice for demand of justice through their counsel, but despite representations and notice for

demand of justice, payment of salary has not been made to the petitioners have filed this writ petition under Article 226 of the Constitution of India and have made a prayer to which reference has been made hereinabove.

3. Respondents have filed counter in response to the notice issued by the court and they have stated that the Government of India, Ministry of Personnel, Public Grievances and Pension, New Delhi has issued detailed guidelines for carrying out special recruitment drive for SC/ST candidates and in that letter it has clearly been mentioned that there is no objection to make recruitment against current vacancies including general vacancies while making special recruitment drive, 1990. The competent authority sought clarification from the Ministry of Personnel, Public Grievances and Pension before making recruitment. Clarification was given vide letter dated 10.7.1990 and it was laid down that if there are more physical vacancies available after taking into account the back log of reserve and general categories are to be recruited against them, there is no objection to such recruitment of general candidates being carried out simultaneously with the recruitment of SC/ST candidates under special recruitment drive, 1990. Therefore, the competent authority issued advertisement and made selections of the candidates belonging to SC/ST as well as those belonging to general category.

4. Respondents have admitted that the petitioners have been appointed. Regarding pay and allowance, the Regional C.D.A. has issued sanction for payment to the candidates belonging to SC/ST, but regarding general candidates, sanction has not been issued so far. Respondents have stated that as soon as sanction is received, payment of salary shall be made to the petitioner.

5. In view of the facts, which have come on record of the writ petition and the reply, it is clear that the petitioners have been regularly appointed in service by the competent authority and their appointment was preceded by regular selection. It is not the case of the respondents that the posts are not available or that any of the candidates lack academic or other qualification which were necessary for their appointments in the service. Once a person has been appointed to a post, which carries a particular pay scale, he acquires a legal right to get salary in that pay scale. It hardly requires mention that all persons holding similar posts have a right to get salary in the time scale prescribed for that particular post. Respondents have failed to offer any justification for not making payment of salary to the petitioners, for last almost 15 months. It is not possible to comprehend a situation where an employee is required to discharge duties for 15 months and is not paid a single paise towards salary and allowances. In fact the petitioners have acquired right to receive salary and arrears of salary, which constitute their property: This property is guaranteed by Article 300A of the Constitution of India and they can be deprived of their right of property only in accordance with the procedure established by law. Respondents have failed to point out any provision of law which authorises them to withhold the payment of monthly salary and allowance of the petitioners. Thus not only legal but

constitutional right of the petitioners has been infringed.

6. Consequently, the writ petition succeeds and is hereby allowed. Respondents are directed to make payment of monthly salary to the petitioners. For the month of October, payment of salary and allowances shall be made within 15 days and salary for the months of November onwards shall be continued to be paid to them as is being paid to the other employees working under the respondents. So far as arrears are concerned, the respondents must pay arrears of salary from the dates of their joining the service till the month of September, 1991 within 3 months. Each of the petitioner shall get interest at the rate of 15% on the monthly salary and allowances from the date the pay & allowances became due, at the end of every month.

7. Costs made easy.