
(2008) 07 RAJ CK 0073
In the Rajasthan High Court

Hari Mohan Vyas

APPELLANT

Vs

Rajasthan State Agricultural Marketing Board and Others

RESPONDENT

Date of Decision : 01-07-2008

Acts Referred:

Citation : (2008) 119 FLR 631 : (2009) 1 RLW 14

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Gopal Krishan Vyas, J.—In this writ petition, petitioner is seeking direction to respondents for granting pay scale meant for Matriculate Munshi and fix salary in the pay scale No. 6 instead of pay scale No. 3 w.e.f. 1.10.1983 and further prayed that respondents may be directed to grant benefit of pay scale in Revised Pay Scale Rules framed by the State Government from time to time with all consequential benefits.

2. The brief facts of the case are that petitioner was initially appointed as work charged Munshi on daily rate basis w.e.f. 15.4.1981. At the time of initial appointment, petitioner was matriculate. Petitioner was declared semi permanent vide order dated 7/8/1987 w.e.f. 1/1/1986 and was allowed pay scale of Rs. 370-530. The order dated 7/8/1987 declaring the petitioner semi permanent was further modified vide order dated 9/3/1990 and petitioner was made semi permanent w.e.f. 1/10/1983 after completion of two years of service because his initial appointment order was dated 15/4/1981. Petitioner has placed on record the said order dated 9/3/1990, whereby, the benefit of semi permanent status was granted to him w.e.f. 1/10/1983 on the post of Munshi as per decision taken by the Screening Committee of the respondent department.

3. It is stated by the petitioner that in respondent department the Work Charged Rules were made applicable vide resolution No. 11 dated 1/8/1980, and in the Work Charged Rules there are two scales meant for Munshi/Store Munshi. One

scale is for non-matriculate and another for Matriculate candidates. The Claim of petitioner is that at the time of initial appointment he was possessing matriculate qualification, therefore, obviously he was to be given semi permanent status in the pay scale which is meant for matriculate munshi but unfortunately he was allowed the pay scale No. 3 which is meant for non-matriculate munshi, therefore, for redressal of his grievance so many representations were filed by the petitioner but genuine claim of petitioner with regard to grant of pay scale No. 6 instead of pay scale No. 3 was not granted. In this case, petitioner is seeking direction to the respondent to grant the pay scale No. 6 which is prescribed for matriculate work charged employee. Further it is submitted that denial of said benefit is illegal and unconstitutional so also contrary to Rules.

4. In reply to writ petition, it is submitted that although Work Charged Rules were made applicable as per resolution No. 11 in the year 1980 but in the respondent department there was only one pay scale of store munshi in existence in the year 1983 which was in the scale of Rs. 370-530, therefore, said existing pay scale was allowed to petitioner. It is submitted that it is wrong to say that there were two pay scales for matriculate and non-matriculate Munshi were in existence, therefore, petitioner was rightly allowed pay scale of Rs. 370-530 in the year 1983 when he was declared semi permanent on the post of Munshi, therefore, claim of petitioner is totally baseless as no pay scale of Rs. 490-840 was in existence in the Board at the relevant time and as such there was no question of granting pay scale No. 6 as claimed by the petitioner. It is, therefore, prayed that writ petition deserves to be dismissed only on this ground.

5. By way of filing rejoinder to reply filed by respondents, it is pointed out by the petitioner that reply filed by respondents is totally false because an order was passed by the Board on 5/9/1995, whereby, respondent Board granted the pay scale No. 6 to petitioner which is prescribed for matriculate Munshi in Work Charge Service Rules, 1964. Further, it is pointed out in additional affidavit that in para No. 9 of the reply it is admitted by the respondents that in the year 1990 the Board has decided to grant the Grade of Rs. 950-1680 to Matric passed work charged Munshi, therefore, same benefit was granted to petitioner and totally false reply has been filed by the respondents. According to petitioner, in the Work Charged Service Rules, 1964, there are two posts of Munshi, one is Store Munshi/Munshi and another is Munshi. The post of Store Munshi/Munshi is required to be filled in by way of direct recruitment as well as by way of promotion in the ratio of 50:50, whereas, the post of Mushy is required to be filled in by way of promotion only and for that feeding cadre is Mate. Meaning thereby, for non matriculate Munshi the procedure for recruitment is 100% by way of promotion and for Matriculate Munshi the procedure prescribed in the Rules is 50% by way of promotion and 50% by way of direct recruitment and admittedly petitioner was appointed directly on the post of Munshi in the Work Charged Cadre, therefore, after completion of two years of service, petitioner was very much entitled for the pay scale of Munshi, which is meant for Matriculate Candidate work charged employee, therefore, as per petitioner denial of pay scale of Rs.

490-840 w.e.f.1/10/1983 is totally illegal. Further it is submitted that as per Annex.R/4 Chief Manager (Administration) informed to the Executive Engineer that at the relevant time the post of Munshi in the pay scale of Rs. 490-840 was not created, therefore, petitioner was granted pay scale of Rs. 370-540 while granting semi permanent status. In the said communication dated 26/10/2006 (Annex.R/4) it is admitted by the respondents that Work Charged Rules were made applicable vide resolution No. 11 dated 1.8.1980 and as per Rules post of Munshi in the pay scale of 370-540 and Store Munshi in the pay scale of Rs. 490-840 were created but no post of Munshi in the pay scale of Rs. 490-840 was created, therefore, decision taken by the respondents for granting semi permanent status w.e.f. 1/10/1983 in the pay scale of Rs. 370-540 was in consonance with the Rules and subsequently granting pay scale of Rs. 950-1680 (Pay Scale No. 6) w.e.f. 1/9/1995 is also in consonance with the decision taken by the respondent Board.

6. I have considered the rival submissions. In this case admittedly Work Charged Rules and Schedule annexed with the Rules were made applicable in the respondent Board vide resolution No. 11 dated 1/8/1980. In the Work Charged Rules, there are two types of posts of Munshi, one is Store Munshi/Munshi and another is Munshi. The relevant part of the Rules reads as under:

1- in dk uke LVksj eqU"kh@eqU"kh 2- osrueku

3- in dk;Z dk fooj.k &

?1? vksojLh;j@LVksj dhij ;k izHkkjh dks fjiksVZ djuk

?2? LVksj ys[kk] eki iqfLrdk,a rFkk vU; izdkj dh oLrqvks dks j[k j[kko djuk

4- HkrhZ izfdz;k,a &

?1? lh/kh HkrhZ }kjk --- --- --- 50 izfr"kr ?2? inksUufr }kjk --- --- --- 50 izfr"kr
5- vgZrk,a

?d? lh/kh HkrhZ gsrq% ?1? esfV?dqysV ;k mlds leku A

?[k? inksUufr gsrq% esfV?dqysV vkSj lkFk esa eqa"kh ds :i esa 2 o"kZ dk vuqHko ukWu&eSfV?d gksus ij eqa"kh dk dk;Z djus dk 7 o"kksZ dk vuqHko A

6- Jksr@xzsM& ftles ls inksUufr dh tkuh gS%

eqa"kh@xksnkeh@eksgfjZj

1- in dk uke eqU"kh 2- osrueku

3- in dk;Z dk fooj.k &

?1? vksojLh;j dks fjiksZV djuk A

?2? lkexzh ys[kk rS;kj djuk o dk;kZy; ds vU; dke es lgk;rk djuk A

4- HkrhZ dh izfdz;k& esV ds in ls 100 izfr"kr inksUufr }kjk 5- vgZrk,a

?1? fefMy mRrh.kZ A

?2? esV ds :i esa 5 o"kksZ dk vuqHko A

6- Jksr@xzsM& ftlesa ls inksUufr dh tkuh gS %& esV (Mate)

7. Above two categories of work charged Munshi clearly suggest that upon post No. 1 appointment can be made by direct recruitment and qualification prescribed is Matriculation and second post, which is also known as Munshi, can be filled in by way of promotion 100% amongst the candidates working on the post of Mate and are possessing qualification of Middle. In these circumstances, admittedly, petitioner was appointed as Munshi directly in the year 1981 and at the time of appointment he was Matriculate, therefore, obviously at the time of granting semi permanent status petitioner was to be considered in first category which is meant for Matriculate candidates and in Annex.R/4 it is admitted by the respondents that post of Store Munshi in the pay scale of Rs. 490-840 was in existence in the year 1980 but no post of Munshi was created in the pay scale of Rs. 490-840. In my opinion, the bifurcation made by the respondent Board is not permissible because for first category of post, which is meant for matriculate candidates the nomenclature of Store Munshi or Munshi are not relevant for the purpose of granting pay scale No. 6 because the post of Store Munshi and Munshi are in one category upon which appointment can be made by direct recruitment. Obviously, from the facts it is clear that petitioner was directly appointed and after completion of two years of service in the year 1983 he was given semipermanent status, therefore, he was to be given pay scale of Rs. 490-840 instead of pay scale of Rs. 370-540 but on a technical ground that post of Munshi in the pay scale of Rs. 490-840 was not created, therefore, he was not granted the said benefit. There is no question of bifurcating the first category of post i.e Store Munshi/Munshi as two posts, because on both the posts candidate is required to possess qualification of matriculation and admittedly petitioner was possessing the required qualification at the relevant time. Therefore, denial of pay scale of Rs. 490-840 to the petitioner is obviously unfounded and illegal.

8. It is also pertinent to observe here that as per respondents themselves it was decided by the respondent department to grant the pay scale of Rs. 950-1680 to the petitioner in the year 1995, which is prescribed for the post of Matriculate Munshi, therefore, respondents are admitting that petitioner was entitled for the grade prescribed for Matriculate Munshi, however, this benefit was not extended w.e.f. the date when petitioner was granted semi permanent status after completion of two years of service.

9. In this view of the matter when in Annex.R/4 it is admitted by the respondents that post of Store Munshi in the pay scale of Rs. 490-840 was in existence at the relevant time when petitioner was granted semi permanent status on the post of Munshi then it is not in the domain of respondent Board to bifurcate the post of Store Munshi and Munshi for which the Matriculation is the prescribed

qualification and petitioner was entitled for the scale of Rs. 490-840 because Store Munshi and Munshi are the two nomenclature used by the Legislature at the time of prescribing the post in the Work Charged Rules for Matriculate candidate. Therefore, denial of pay scale of Rs. 490-840 w.e.f. 1/10/1983 to the petitioner when he was made semi permanent on the post of Munshi was totally illegal.

10. In view of above discussion, this writ petition is allowed. Respondents are directed to allow the pay scale of Rs. 490- 840 to the petitioner w.e.f. 1/10/1983 instead of pay scale of Rs. 370-540 and respondents are further directed to grant benefit of Revised Pay Scale Rules to the petitioner and grant all consequential benefits while granting the pay scale of Rs. 490-840 w.e.f. 1/10/1983. The said exercised shall be completed within a period of three months from the date of receipt of certified copy of this order.