
(2009) 10 RAJ CK 0097

In the Rajasthan High Court

Case No : Civil Writ Petition No. 6423 of 2008

Hem Singh and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 21-10-2009

Acts Referred:

Rajasthan Public Works Department (Buildings and Roads) Including Gardens, Irrigation, Water-Works and Ayurvedic Departments, Work-charged Employees Service Rules, 1964 — Rule 3

Citation : (2009) 10 RAJ CK 0097

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Govind Mathur, J.—To claim Semi Permanent Status as Store Munshi, as per the Rajasthan P.W.D. (B&R), including Gardens, Irrigation, Water Works and Ayurvedic Department, Work-charged Employees Service Rules, 1964, this petition for writ is preferred.

2. The Chief Personnel Officer, Public Health Engineering Department, Government of Rajasthan by letter dated 20.11.2006 instructed all Executive Engineers of the Public Health Engineering Department to remit details relating to daily rated employees/helpers, whose services were utilized in Ministerial Cadre from the date of their initial appointment or from the date they were declared as Semi Permanent under Rajasthan P.W.D. (B&R), including Gardens, Irrigation, Water Works and Ayurvedic Department, Work-charged Employees Service Rules, 1964 ("for short "the Rules of 1964"). In response to the letter dated 20.11.2006, the Superintending Engineer, Public Health Engineering Department, Nagaur Circle, Nagaur remitted necessary details of the petitioners under a letter dated 20.12.2006 with specific assertion that they were discharging Ministerial duties from the date of their initial appointment. The petitioners though were employed as Helper with the respondents in work

charged cadre, but their services were utilized as Store Munshi from the date of their initial appointments, thus, their case was recommended for grant of semi permanent status as Store Munshi, but no action was taken thereon. At the same time, the respondents allowed semi permanent status to number of other persons as Store Munshi as per Rule 3 of the Rules of 1964, though they were initially appointed as Helper as their services were utilized as Store Munshi. In such circumstances, this petition for writ was preferred.

3. A reply to the writ petition has been filed on behalf of the respondents, wherein it is accepted that the petitioners discharged ministerial duties from inception and their case was recommended for grant of semi permanent status as per Rule 3 of the Rules of 1964 on the post of Store Munshi and decision thereon is yet to be taken.

4. Heard learned Counsel for the parties.

5. As per Rule 3 of the Rules of 1964, a work charged employee on completion of two years continuous service is entitled to be conferred with semi permanent status subject to the satisfactory service record. The petitioners though were appointed as Helper, but they have discharged ministerial duties, therefore, they were serving as Store Munshi and not as Helper. As per Rule 3 of the Rules of 1964, the employees on completion of two years continuous satisfactory service are entitled for grant of semi permanent status. Prior to grant of semi permanent status, a workman in work charged cadre is only a casual employee, thus, it is only the factor of utilization of his service that may be a basis for awarding status as per Sub-rule (2) and (3) of Rule 3 of the Rules of 1964. The respondents too accepted this position and, therefore, under the letter dated 20.11.2006 (Annexure 1) sought necessary details regarding the work charged employees, whose services were utilized in Ministerial Cadre despite their appointment as daily rated employee/helper. It is also pertinent to note that officers of the respondent department also recommended cases of the petitioners for grant of semi permanent status in work charged cadre on the post of the Store Munshi on completion of two years of service from the date of their initial appointment as helper.

6. This Court in *Ashok Kumar and Ors. v. State of Rajasthan and Ors.*, SBCWP No. 2162 of 1992, while examining case of similar nature, wherein certain persons were appointed as Helper Grade II, claimed semi permanent status on the post of driver being utilized as such, held as follows:

Petitioners were initially appointed on the post of Driver vide Annexure 1 dated 27.06.1987 on daily wages after selection by a Selection committee and continuing on the post. They were thereafter given a status of semi permanent by the order dated 10.04.1992 in the cadre of Helper Gr.II (Annexure 2) and order dated 15.04.1992 (Annexure 3). Petitioners have filed this writ petition alleging that petitioners were initially appointed on the post of Driver and now the Government has given them semi permanent status as Helper Gr.II whereas

they should have been given the status of Driver instead of Helper Gr.II. It was submitted that by virtue of giving them the status of Semi Permanent as Helper Gr.II or Beldar amounts to reversion. The pay scale of a Driver is of Rs. 975-1720 whereas that of the Helper Gr.II is 775-1025, therefore, it is submitted that by giving them a status of Helper Gr.II this amounts to reduction in their salary also. Therefore, in the facts and circumstances of the case, the respondents are directed to give the petitioners status of semi permanent Driver instead of Helper Gr.II or Beldar as they were continuing on the post of Driver right from their initial appointment. The respondents shall pass an appropriate order and grant them a status of semi permanent Driver.

7. The petitioners being discharging ministerial duties on the post of Store Munshi from the date of their initial appointment are also entitled for conferment of semi permanent status on the said post.

8. Accordingly, this petition for writ is allowed. The petitioners are declared entitled to be conferred with semi permanent status as Store Munshi from the date they completed two years of service from the date of their initial appointment. The petitioners are also declared entitled for all consequential benefits. Necessary orders as a consequent to the entitlement declared, are required to be passed within a period of three months from today.