
(2014) 07 RAJ CK 0141
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3387/2014

Jitendra Chouhan

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 02-07-2014

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2014) 07 RAJ CK 0141

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Shreekant Verma, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Dr. Vineet Kothari, J.—Mr. Shreekant Verma, learned counsel for the petitioners states at Bar that similar writ petition preferred by other writ-petitioner has already been dismissed by this Court while deciding the writ petition being SBCWP No. 3503/201-Ashok Godara Vs. State of Rajasthan & Ors., decided on 22.05.2014. This Court in the case of Ashok Godara (supra), has held as under:-

11. As far as the question of giving mandamus direction to the State to continue the petitioners in contractual employment beyond 30/4/2014 is concerned, this Court is of the considered opinion that such a mandamus direction cannot be given. It is within the domain and discretion of the State Government to extend the contractual term upto the period, which they think proper looking to their requirements, availability of posts, availability of financial sanction & approval from the State Govt. under Free Medical Aid Scheme by the Central Government for NRHM under which the said projects are continuing. There is no material placed on record by the petitioners that without the employment of petitioner on contractual basis, the State Government would not be able to run these DDCs under the Chief Minister's Free Medical Aid Scheme, which undoubtedly is continuing even after the change of Government after Legislative Assembly Elections in 2013. The administrative structure required for manning such DDCs

is within the control of the State & the State has already held regular selection process for Pharmacists & the Information Assistants in recent past. It may do so even now for remaining posts as sanctioned by the State.

12. It is true that after continuing for 3-4 years, the discharge of contract of employment causes dislocation and renders the persons like the petitioners unemployed and certainly causes financial loss and prejudices to them but this Court finds no legal foundation and basis for directing the State to continue the petitioners on contractual employment beyond the date of expiry of the contract itself. The State in the present case is not seeking to replace one set of contractual employees by another set of contractual employees, which as an unfair practice could be enjoined against by this Court. Here the State has decided to simply continue only those Pharmacists employed through RMRS that too against 423 posts vide order Annex. R/1 dated 16/5/2014 till the regular selection process for such posts of Pharmacists is held by the State. From the reply of the State Government, quoted above, it is clear that the final decision has been taken by the respondent State in this regard. The justification for restricting the continuance of Pharmacists employed only through RMRS also cannot be said to be unreasonable & hit by any invidious classification so as to be violative of Article 14 of the Constitution of India. The petitioner Ashok Godara, who was employed through other placement agency, of course with the authority of the State at the time of recruitment given to Jodhpur Upbhokta Wholesale Bhandar Ltd. but he, cannot claim that extension of contractual employment to the persons employed through RMRS creates any unreasonable classification, which is hit by Article 14 of the Constitution of India. It appears to be a reasonable classification and that too under a temporary arrangement made by the State till the respondent State holds the regular selection process for these 423 posts of Pharmacists as per the communication Annex. R/1 dated 16/5/2014.

13. The contention of the learned counsels for the petitioner that for the post of Helpers, no decision has been taken by the State Government is also belied by the reply filed by the respondent State that the extension of term of Helpers was upto April, 2014 and, "thereafter, the financial approval and sanction for the post of Helper is not granted". This averment made in reply by the State Government has not been controverted and there is no document to the contrary placed on record, therefore, the Court cannot presume that no decision was taken by the State with regard to the post of Helpers.

14. As far as Computer Operators are concerned, there is no dispute that with a different name and designation known as "Information Assistants" the regular selection process has already been held by the State Government in the year 2013 and since the regularly selected persons or Information Assistants became available for the post of Computer Operators, some of the present petitioners, who are Computer Operators, cannot claim any preferential right over the regularly selected and appointed Computer Operators/Information Assistants.

15. This Court is, therefore, of the considered opinion that present set of writ

petitions do not have any merit & deserve to be dismissed and no mandamus direction can be given to the respondent State to extend the term of contractual employment of the Pharmacists employed through agencies other than RMRS, Computer Operators and Helpers working in the various DDCs, run and operated by the State Government under the Chief Minister's Free Medical Aid Scheme.

16. Consequently, the writ petitions are hereby dismissed. No costs. Copy of the order be sent to the concerned parties forthwith.

2. Having regard to the submissions made by the learned counsel for the petitioner and so also the fact that identical writ petition has already been dismissed by this Court, the present writ petition is also dismissed. No costs. A copy of this order be sent to the concerned parties forthwith.