
(2019) 05 RAJ CK 0250

In the Rajasthan High Court

Case No : Civil Writ Petition No. 10281, 10384, 10915 Of 2018

Kamlesh And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 30-05-2019

Acts Referred:

Land Revenue Act, 1956 — Section 31, 35
Rajasthan Land Revenue (Land Records) Rules, 1957 — Rule 4, 4(b), 273, 284, 301,
301(1), 301(1)(ii), 302(2), 302(3)

Citation : (2019) 05 RAJ CK 0250

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Manoj Bhandari, Ankur Mathur, Harish Purohit, Mohit Choudhary,
Navdeep Dadhich, Rekha Borana, Kuldeep Mathur, Mrigraj Singh

Final Decision : Dismissed

Judgement

These writ petitions have been filed by the petitioners aggrieved by the seniority list issued by the respondents pursuant to the amendment in Rule 301 of the Rajasthan Land Revenue (Land Records) Rules, 1957 ('the Rules of 1957') and order dated 12.04.2018 issued by the Registrar, Revenue Board seeking information based on the guidance indicated in the said order.

The facts of the dispute are chequered, an advertisement was issued in the year 1999 for selection to the post of Patwari and applications were invited under Rule 273 of the Rules of 1957. The petitioners applied for the same and after passing the written test, they were selected as Patwari, however, pursuant to the decision taken in meeting dated 23.05.2000 (Annex.2 to SBCWP No.10281/2018), instead of granting appointment to the petitioners as Patwari, they were granted appointment as Gram Sewak in the year 2000 on a fixed sum of Rs.1200/- per month on purely temporary basis. Thereafter, by order dated 27.03.2002 (Annex.4 to SBCWP No.10281/2018), it was ordered that all the candidates selected through Patwar Competitive Examination-1999 and working as Gram

Sewaks would be appointed as Patwaris and therefore, they may be called for training and appointed after such training. The petitioners, after undertaking the requisite training under the Rules of 1957, claim to have continued to work as Patwaris.

A writ petition i.e. *Amrit Lal Gurjar & Ors. v. State of Rajasthan & Ors.* : S.B. Civil Writ Petition No.663/2008, came to be filed by the persons similarly situated to the petitioners claiming that they were entitled for the salary of the Gram Sewak prescribed in the Rajasthan Panchayati Raj Rules, 1996 ('the Rules of 1996') for the period they worked on the post of Gram Sewak-cum-Secretary of the Panchayat Samiti and their services are also liable to be reckoned for all purposes from the date when they were initially appointed on the post of Gram Sewaks. In the alternative, it was prayed that they were entitled for the salary of Patwari as prescribed in the Rules of 1957 as they were selected through competitive examination. The writ petitions were decided by order dated 30.05.2013, whereby the writ petitions were dismissed.

Whereafter, it appears that the cabinet took a decision on 29.08.2013 qua the petitioners and ordered that reducing the Patwar training period from the service on the post of Gram Sewak, the rest of the service on the post of Gram Sewak be regularized and notional benefit be given.

Whereafter, as at the relevant time the seniority etc. of the Patwaris was being maintained district-wise, effect to such direction was given, whereby order dated 07.05.2014 (Annex.7 to SBCWP No.10915/2018) was issued indicating the dates of appointment in terms of the cabinet decision. Subsequent thereto, amended seniority list (Annex.8 to SBCWP No.10915/2018) was issued again giving effect to the decision.

An order dated 20.01.2015 (Annex.6 to SBCWP No.10915/2018) was passed by the Registrar, Board of Revenue inter-alia issuing guidelines for implementation of the cabinet decision.

Whereafter, a final seniority list dated 18.01.2016 was issued. Few of the petitioners were also accorded promotion by order dated 20.02.2016 on the post of Inspector (Land Records) based on the said seniority.

Subsequent thereto, by notification dated 12.10.2017 (Annex.10 to SBCWP No.10915/2018), the Rajasthan Land Revenue (Land Records) Second Amendment Rules, 2017 ('the Amendment Rules, 2017') were notified providing for amendment in Rule 301 of the Rules of 1957, whereby it was provided that for the purpose of selection of candidates by promotion to the post of Inspector (Land Records), list of Patwari of the Revenue and Land Record departments at State level shall be prepared.

To give effect to the said provision, seniority list in all districts were prepared indicating the date of joining as Patwari and qua the petitioners, the date of joining as Patwari was indicated as the date on which pursuant to the cabinet

decision they joined as Patwaris, which led to various clarifications being issued from time to time, the first being dated 12.04.2018 (Annex.13 to SBCWP No.10915/2018) inter-alia indicating that the indication of notional joining date cannot be treated as the first appointment date for the post of Patwari and they were called upon to give out the specific date when the candidates like petitioners joined on the post of Patwari.

Another communication was issued by the Registrar dated 25.01.2018 (Annex.15 to SBCWP No.10915/2018) requiring to again indicate the date when the joining on the post of Patwari took place.

Initially, the petitioners (in SBCWP No.10915/2018) challenged the validity of provision of sub-clause (ii) of sub-rule (1) of Rule 301 of the Rules of 1957, however, the challenge was withdrawn before the Division bench on 07.02.2019.

It is submitted by learned counsel for the petitioner in SBCWP No.10915/2018 that the action of the respondents in taking away the benefit already granted and / or the clarification dated 20.01.2015 issued by the Registrar (Annex.6 to SBCWP No.10915/2018) which was implemented by Annex.7, is wholly unjustified. No opportunity of hearing was accorded to the petitioners and the circular dated 12.04.2018, which has now been issued, is based on wrong interpretation of the entire situation and therefore, the same deserves to be quashed and set-aside.

Submissions were made that the respondents are estopped from taking away the benefits conferred on the petitioners and no prejudicial action on their part is permissible in law. The implementation of the provisions of amendment made in Rule 301 by not counting the services rendered by the petitioners as Gram Sewaks despite cabinet decision to reckon them for notional purposes is not justified.

Further submissions have been made that earlier order (Annex.6) putting a specific interpretation to the status of the petitioners, has not been withdrawn and therefore, issuance of the seniority list, taking away the benefits already accorded to the petitioners cannot be sustained.

Reliance was placed on *A Janardhana v. Union of India & Ors* : AIR 1983 SC 763, *Motilal Padampat Sugar Mills Co. Ltd. v. State of Uttar Pradesh & Ors.* : (1979) 2 SCC 409 and *Jai Narain Parasrampuriah & Ors. v. Pushpa Devi Saraf & Ors.* : (2006) 7 SCC 756.

It was prayed that the so-called clarification issued by the order dated 12.04.2018 be set-aside and based on the cabinet decision, the petitioners be held entitled for counting of their services from the date they joined as Gram Sewaks.

Learned counsel appearing in SBCWP No.10281/2018 while retreating the submissions made by learned counsel for the petitioners in the connected writ petitions, submitted with reference to provisions of Sections 31 & 35 of the Land

Revenue Act, 1956 ('the Act of 1956') and Rajasthan Rules of Business that the cabinet decision as well as Annex.7 in SBCWP No.10281/2018 directing implementation of the cabinet decision, would carry the force of service conditions and as a consequence thereof, the order dated 04.10.2013 (Annex.8 to SBCWP No.10281/2018) issued would have the effect of Rules.

Submissions were made that the Registrar could not have ordered for change in the condition by issuing order dated 12.04.2018 and the same essentially amounts to amending the earlier orders, which is not permissible in law.

Learned counsel representing the petitioners in SBCWP No.10384/2018 made submissions that the language of order dated 20.01.2015 is very specific and once implemented, the order cannot be withdrawn, the respondents cannot take away the benefit which has already accrued to the petitioners.

Further submissions were made that the respondents cannot have two different dates i.e. one set of date for ACP, increments & pension and another set of date for seniority and on that count also, the action of the respondents cannot be sustained and therefore, the writ petitions deserve to be allowed.

Learned Additional Advocate General appearing for the State opposed the submissions.

It was submitted that the respondents were seeking to distort the cabinet decision, which only provided for according notional benefit as Gram Sewak and according to the said benefit, the same cannot be taken as date of joining as Patwari and therefore, the entire plea raised in this regard cannot be sustained.

Further submissions were made that even as per Annex.11 dated 20.01.2015, the indication made therein is clear and from Clause (3), it is apparent that the benefit would be from the date of actual appointment and therefore, the plea raised by the petitioners in this regard has no substance.

Further submissions were made that the amended provision provides for seniority based on the first date of joining as Patwari and as admittedly, the petitioners joined on the post of Patwari after serving as Gram Sewak, they cannot claim any benefit for the period they worked as Gram Sewak in terms of amended Rule 301. Submissions were also made that even if interpretation as put by the petitioners to the cabinet decision is accepted, the same being contrary to the Rules cannot be implemented and in any case stands superseded by notification dated 12.10.2017, whereby Rules of 1957 were amended.

Reliance was placed on Union of India v. R.Reddappa : (1993) 4 SCC 269.

Learned counsel appearing for private respondents No. 4 to 11 in SBCWP No.10281/2018, vehemently made submissions that vide order dated 27.03.2002 (Annex.4 to SBCWP No.10281/2018), it was indicated that after completing the training, the candidates like petitioners be accorded regular salary and therefore, the orders of appointment were issued after completion of

training vide Annex.-6 to SBCWP No.10281/2018 and therefore, the petitioners cannot claim to have joined as Patwari prior to completion of their training of 09 months.

Submissions were made that a bare look at the cabinet decision would reveal that the same only meant taking the petitioners as regular Gram Sewak and give them benefit in the service as Patwari. It was submitted that there was nothing in the cabinet decision so as to vary the requirements of Rule 4 of Rules of 1957, wherein it is only on obtaining the certificate of Patwar training that appointment can be accorded on the post of Patwari and therefore, the plea raised in this regard is mere distortion of the cabinet decision.

Submissions were also made that the interpretation put by the Registrar by communication dated 20.01.2015 (Annex.12 to SBCWP No.10281/2018) was beyond jurisdiction of the Registrar and against the directions and therefore, of no avail to the petitioners. Submissions were also made that the seniority lists were drawn at district level before the amendment, which was also challenged by filing SBCWP No.3925/2016, wherein the seniority list has been stayed. The purpose of cabinet decision was only to protect the pay of the petitioners and as such, the order dated 12.04.2018 (Annex.1 to SBCWP No.10281/2018) now issued by the Registrar is in conformity with the Rules and therefore, the same does not call for any interference.

Reliance was placed on Prakash Chand & Anr. v. Ganga Vishan Gujarati & Ors. : D.B. Special Appeal Writ No.852/2018, decided on 06.08.2018, inter-alia, for the proposition that a person cannot claim benefit from before the date he is borne on the cadre and Deepak Agarwal v. State of Uttar Pradesh : (2011) 6 SCC 725 for the proposition that for the purpose of seniority and promotion, the provisions as they exist on the date promotion is to be granted only are relevant. It was prayed that the writ petitions be dismissed.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

The initial facts are not in dispute, wherein though the petitioners were selected pursuant to Patwar Recruitment-1999, they were accorded posting on temporary basis on fixed remuneration as Gram Sewaks on which posts they continued for long. Whereafter, by decision taken on 23.05.2000, the petitioners were subjected to Patwar training and on completion of Patwar Training, they were accorded appointment as Patwaris. The writ petition filed by similarly placed candidates in the case of Amrit Lal Gurjar (supra) seeking salary as Gram Sewaks, reckoning of their services for all purposes when they were appointed on the posts of Gram Sewaks were rejected.

However, despite dismissal of the writ petition, a cabinet decision dated 29.08.2013 came to be taken, which reads as under :-

"दिनांक 29 अगस्त, 2013 को सरक्यूलेषन के माध्यम से राजस्व (ग्रुप-1) विभाग द्वारा प्रस्तुत ज्ञापन क्रमांक: प.

11(4)राज./ग्रुप-1/2010 दिनांक 12 जुलाई, 2013 में अंकित सीधी भर्ती पटवार प्रतियोगिता परीक्षा, 1999 के 694 सफल आषार्थियों को जुलाई, 2000 से जलाई, 2002 तक ग्राम सेवक के पद पर अस्थाई रूप से तयषदा 1200/- रूपये मानदेय प्रतिमाह पर पंचायती राज विभाग ने ग्राम सेवक के पद पर की गई सेवा अवधि में से पटवार प्रषिक्षण अवधि को घटाया जाकर इनकी शेष ग्राम सेवक की सेवा अवधि को नियमित मानते हुए इन्हें नोषनल लाभ दिये जाने संबंधी प्रस्ताव का अनुमोदन किया गया।"

Pursuant to the said cabinet decision, order dated 05.09.2013 was issued by the Joint Secretary, relevant part thereof reads as under :-

"महोदय,

उपर्युक्त विषयान्तर्गत निर्देशानुसार लेख है कि सीधी भर्ती पटवार प्रतियोगिता परीक्षा, 1999 के 694 सफल आषार्थियों को जुलाई, 2000 से जलाई, 2002 तक ग्राम सेवक के पद पर अस्थाई रूप से तयषदा 1200/- रूपये मानदेय प्रतिमाह पर पंचायती राज विभाग में ग्राम सेवक के पद पर की गई सेवा अवधि में से पटवार प्रषिक्षण अवधि को घटाया जाकर इनकी शेष ग्राम सेवक की सेवा अवधि को नियमित मानते हुए इन्हें नोषनल लाभ दिये जाने की स्वीकृति एतद् द्वारा प्रदान की जाती है।

उक्त स्वीकृति मंत्रिमण्डल की आज्ञा क्रमांक डी.198/मं.मं./2013 जयपुर, दिनांक 29.08.2013 के अनुसरण में जारी की गई है।

भवदीय

सही/-

(सूबेसिंह यादव)

संयुक्त शासन सचिव"

Another clarification dated 04.10.2013 was issued, relevant part thereof reads as under :-

"पटवारियों के द्वारा लिये गये प्रषिक्षण की अवधि को केवल एक बार ही कम किया जाना है अर्थात् पटवार प्रतियोगी परीक्षा के सफल आषार्थियों द्वारा ग्राम सेवक के पद पर की गई सेवा अवधि में से प्रारम्भिक सेवा अवधि के 9 माह को पटवार प्रषिक्षण अवधि के रूप में मानते हुए कम किया जाकर शेष ग्राम सेवक के पद पर की गई सेवा अवधि को इनकी पटवारी के पद पर नियुक्ति तिथि तक लगातार नियमित मानते हुए नोषनल लाभ दिया जाना है। उक्त नियमितिकरण (नोषनल लाभ) की सेवा अवधि पेन्शन लाभ दिये जाने योग्य मानी जायेगी। उक्त स्पष्टीकरण वित्त (नियम) विभाग की आई.डी. संख्या 221301437 दिनांक 24.9.2013 एवं कार्मिक (क-2) विभाग की आई.डी. संख्या 1319 दिनांक 4.10.2013 के अनुसरण में प्रदत्त किया जाता है।

भवदीय

सही/-

(सूबेसिंह यादव)

संयुक्त शासन सचिव"

Pursuant thereto, it appears that at the relevant time, steps were taken at the district level for implementation of the decision, which again led to various issues pertaining to the counting of services rendered as Gram Sewaks and

consequence thereof, when the Registrar, Board of Revenue issued a circular dated 20.01.2015, which is heavily relied on by the petitioners, inter-alia, indicating the following guidelines:-

"जिला कलेक्टर द्वारा प्रथम नियुक्ति दिनांक प्रथम चयनित वेतनमान, वरिष्ठता का निर्धारण ग्राम सेवक से पटवार प्रशिक्षण तथा पटवार प्रशिक्षण पश्चात् - कार्यग्रहण अवधि के मध्य अन्तराल ;लंछद्ध के संबंध में मार्गदर्शन चाहा गया है। मण्डल के अतिरिक्त निबंधक (वित्त एवं लेखा) के द्वारा परीक्षण किये जाने के पश्चात् निम्नानुसार मार्गदर्शन दिया जाता है :-

1. पटवारियों द्वारा ग्राम सेवक के पद पर की गई सेवा अवधि में से प्रारम्भिक 9 माह कम करते हुए नवीन नियुक्ति तिथि को पटवारी पद पर प्रथम नियुक्ति मानते हुए पटवारी पद की नियमित वेतन श्रृंखला 3050-4590 के अनुसार वेतन स्थिरीकरण पश्चात् नवीन नियुक्ति तिथि से पटवारी पद पर नियुक्ति तिथि तक नोषनल लाभ देय होगा तथा पटवारी पद पर नियुक्ति तिथि से नकद लाभ देय होगा।
2. 9 वर्षीय चयन वेतन हेतु सेवा की गणना दिनांक ग्राम सेवक अवधि में से पटवार प्रशिक्षण अवधि 9 माह को घटाया जा कर नवीन नियुक्ति तिथि से की जावेगी।
3. पटवारियों की नवीन प्रथम नियुक्ति तिथि के अनुसार वरिष्ठता का निर्धारण किया जावेगा।
4. ग्राम सेवक पद से कार्यमक्त हो कर पटवार प्रशिक्षण में कार्यभार ग्रहण करने के मध्य अन्तराल तथा प्रशिक्षण समाप्ति के बाद से पटवारी के पद पर कार्यभार ग्रहण के मध्य अन्तराल अवधि के संबंध में कार्मिक को तत्समय नियमानुसार देय अवकाष स्वीकृत होगा।

भवदीय

सही/-

(मिरजू राम शर्मा)

निबन्धक"

Whereafter, certain provisional seniority lists were issued and even final seniority lists at district level were also issued according the benefit to the petitioners as indicated in guidelines dated 20.01.2015.

The amended provisions of Rule 301 of the Rules of 1957 in so far as relevant reads as under :-

"Amendment of rule 301.- The existing sub-rules (1), (2) and (3) of rule 301 of the said rules shall be substituted by the following namely:-

"(1)(i) For the purpose of selection of candidates by promotion as provided in rule 284, the Board of Revenue shall prepare a State level seniority list of all Patwaris of the Revenue and Land Record Departments serving in the State, irrespective of the district cadre to which they belong.

(ii)- The seniority of all Patwaris serving on the date of commencement of the Rajasthan Land Revenue (Land Records) (Second Amendment) Rules, 2017, shall be determined by the Board of Revenue on the basis of their first date of joining as Patwari. If the first date of joining on the post of Patwari is the same the

seniority shall be determined on the basis of the date of birth. The Patwari whose date of birth stands first shall be deemed to be senior. In case of same date of joining and the same date of birth, the order of the English alphabet of the name of employee shall be criterion for determination of seniority.

Explanation : For the purpose of this rule first date of joining shall be as recorded in the service book of the Patwari concerned.

(iii)- The seniority of Patwaris appointed, after the date of commencement of the Rajasthan Land Revenue (Land Records) (Second Amendment) Rules, 2017, shall be determined according to their serial number in selection list of Patwar Direct Recruitment Examination. In case, a patwari is appointed on the compassionate ground, his/her seniority shall be determined on the basis of first date of joining."

A perusal of the above provision reveals that it was provided that seniority of all Patwaris serving on the date of commencement of the Amendment Rules, 2017 shall be determined by the Board of Revenue 'on the basis of their first date of joining as Patwari'. The said amendment, is the crux of present dispute.

It would be noticed that the provisions of Rules of 1957 underwent fundamental change wherein by notification dated 12.10.2017, amendments were made in the Rules of 1957 and by amendment of Rule 301 instead of district level seniority which was hitherto before in vogue was replaced by State level seniority of all Patwaris of the Revenue and Land Records departments serving in the State irrespective of the district cadre to which they belonged and the relevant provision for reckoning of the seniority on the date of commencement of the Amended Rules, 2017 was indicated 'on the basis of their first date of joining as Patwari' and by explanation the first date of joining was indicated 'as recorded in the service book of the Patwari concerned.'

For the purpose of implementing amendment of 2017 again the Registrar issued instructions dated 12.04.2018 indicating the requirements as per the amended Rules. The indication made therein reads as under :-

"महोदय,

उपरोक्त विषयान्तर्गत निवेदन है कि संयुक्त शासन सचिव राजस्व (ग्रुप-6) विभाग राज. जयपुर की अधिसूचना क्रमांक एफ.4 (1) राज-6/2006/पार्ट/30 दिनांक 12-10-2017 के अनुसार पटवारियों की दिनांक 01.04.2017 की स्थिति की राज्य स्तरीय वरिष्ठता सूची राजस्व मण्डल स्तर पर प्रक्रियाधीन है। राज्य स्तरीय वरिष्ठता सूची तैयार करने हेतु प्रासंगिक पत्रों द्वारा आपसे निर्धारित प्रपत्र में सूचना चाही गई थी। अधिकांश जिलों से मण्डल कार्यालय में सही सूचना प्राप्त हो चुकी है परन्तु कतिपय जिलों द्वारा पटवारियों की ग्राम सेवक पद पर की गई सेवा के आधार पर राजकीय सेवा अवधि की गणना हेत निर्धारित की गई नोषनल उपस्थिति तिथि को ही पटवारी पद पर प्रथम नियुक्ति तिथि के रूप में अंकित कर सूचना भिजवा दी गई है, जो कि नियमानुसार सही नहीं है। एकाधिक बार स्पष्ट निर्देश प्रदान करने के पश्चात् भी कतिपय जिलो द्वारा अपूर्ण एवं गलत सूचना भिजवाई जा रही है जिससे पटवारियों की राज्य स्तरीय वरिष्ठता सूची जारी करने में अनावश्यक विलम्ब हो रहा है।

अतः पुनः निर्देशित किया जाता है कि आप द्वारा पूर्व में भिजवाई गई सूचना का अवलोकन करावें तथा यदि किन्हीं पटवारियों की पटवारी पद पर वास्तविक प्रथम कार्यग्रहण तिथि से भिन्न किसी तिथि का अंकन कर सूचना भिजवाई गई हैं

तो नियम संशोधन अधिसूचना दिनांक 12.10.17 के अनुसार संशोधन कर पटवारी पद पर वास्तविक प्रथम कार्यग्रहण तिथि के अनुसार सही सूचना मय प्रमाण पत्र पुनः हार्ड कॉपी मय सॉफ्ट कॉपी अविलम्ब भिजवायें। साथ ही उक्त सूचना Excel Sheet (.xls or .xlsx) में मण्डल के ई-मेल bordrlr@gmail.com पर आज ही मेल करवाना सुनिश्चित करावें ताकि पटवारियों की दिनांक 01.4.2017 की स्थिति की राज्य स्तरीय अन्तरिम (प्रोविजनल) वरिष्ठता सूची का प्रकाशन किया जा सके।"

The above directions led to filing of the present writ petitions.

It may be noticed at this stage that the challenge laid to amended provisions of Rule 301 changing the district-wise seniority to State-wise seniority was negated by a Division Bench in Kaushal Kishor Sharma & Ors. v. The State of Rajasthan & Ors. : D.B. Civil Writ Petition No.9258/2018, decided on 03.10.2018. The Division Bench after referring to large number of precedents, laid down that to have a particular position in the seniority list within a cadre can neither be said to be accrued or vested right of a government servant and that an act of State legislature which is retrospective and which affects the seniority of government servants, cannot be held to be ultra-vires to the Constitution.

Further the petitioners in SBCWP No.10915/2018, as noticed hereinbefore specifically challenged the validity of clause (ii) of sub-rule (1) of Rule 301, but withdrew the challenge.

A bare look at the cabinet decision from which the entire cause for the petitioners arose would reveal that it was decided that from the period the petitioners served with the Panchayati Raj Department on the post of Gram Sewak, the period of Patwar training be deducted and the remaining period of service as Gram Sewak be treated as regular and notional benefit be given.

The fundamental submissions raised by learned counsel appearing for the respondents No.4 to 11 in SBCWP No.10281/2018 that the cabinet decision shall have to be read in the context of the requirements of the Rules of 1957 and there is no warrant for assuming that the cabinet intended to flout the specific provisions of the Rules has substance.

Rule 4 of the Rules of 1957 in so far as relevant reads as under :-

"4. Appointments.-(a) A Patwari shall be appointed to each circle.

(b) Only such persons who have obtained Patwar School Certificate shall be eligible for appointment as Patwaries, Additional Patwaries or Assistant Office Qanungo:"

The above provision, which deals with appointments of Patwari specifically under clause (b) stipulates that only such persons who have obtained Patwar school certificate shall be eligible for appointment as Patwaris and therefore, it cannot be assumed that the cabinet intended that the petitioners would be accorded benefit from before the date they completed their training as envisaged by Rule 4(b) of the Rules of 1957.

Submissions made that only intention was to regularize the services as Gram Sewak and provide for its effect qua the petitioners who served as Gram Sewaks on joining as Patwaris and to accord them notional benefit also deserves acceptance as any other interpretation put to the cabinet decision, would be ex-facie contrary to the requirements of Rule 4(b) of the Rules of 1957.

Further, the mere fact that a circular dated 20.01.2015 was issued by the Registrar, Board of Revenue (quoted supra) providing guidelines including guideline that the seniority of the Patwaris shall be determined from the new first date of appointment cannot by itself, create any right in favour of the petitioners so as to claim its implementation as creating estoppel against the State and / or the private respondents, inasmuch as, the said guidelines issued have no statutory force and are essentially outcome of understanding of certain officials, which if shown as incorrect / contrary to the statute, are essentially of no avail.

Once, the Amendment of 2017 was notified, changing the entire paradigm of determining seniority from District level to State level and clause (ii) of sub-rule (1) of Rule 301 provided the same to be determined on the basis of 'first date of joining as Patwari on the date of commencement of the Amendment Rules, 2017', the date of joining of various Patwaris was required to be determined for the purpose of ascertaining the seniority in terms of the amendment and by no stretch of imagination, it can be said that the petitioners joined as Patwaris on the date when they joined in the position of Gram Sewak only on account of the fact that they have been accorded notional benefits pursuant to the cabinet decision dated 19.08.2013, inasmuch as, the same would be in complete derogation of the express provisions of Rule 4(b) as well as Rule 301(1)(ii) of the Rules of 1957.

The explanation to Rule 301 of the Rules of 1957 is also of significance in this regard, which provides that for the purpose of said rule, the first date of joining shall be as recorded in the service book of the Patwari concerned and the service book of the petitioners as Patwari only is required to be looked into and it cannot be said that the period, petitioners spent as Gram Sewaks, could be taken as having been spent the same as Patwari by claiming their date of joining as that of Gram Sewak for the purpose of determination of seniority.

In view thereof, the entire plea sought to be raised by the petitioners seeking to question the validity of the action of the respondents in issuing the communication dated 12.04.2018 (Annex.13) has no substance.

So far as the submissions made by learned counsel for the petitioners that the cabinet decision in terms of Sections 31 & 35 of the Act of 1956 and Rajasthan Rules of Business would take the shape of Rule is concerned, besides the fact that the contents as discussed herein-before of the cabinet decision does not support the plea, even if the interpretation put to cabinet decision is accepted, the same without there being any indication in this regard in the cabinet decision cannot be taken as varying the terms of Rule 4(b) of the Rules of 1957 for the

petitioners only.

Irrespective of the above situation, once the amended Rules of 2017 came into force, the date of joining as Patwari has to be given a plain interpretation, which could only mean date of joining on the post of Patwari and same cannot have any retrospectivity. The phrase 'date of joining' has its own significance in contradistinction to the 'date of appointment' and very fact that the Rule has used 'date of joining' and not 'date of appointment' is clearly reflective of the intention to provide seniority based on the date of joining and not the date of appointment. The mere fact that the petitioners would be entitled for reckoning of their service as Gram Sewak for other service benefits cannot be determinative of their claim of seniority, which would be governed by the express provisions of Rule 301.

Further issue raised by the petitioners regarding effect of implementation of the provisions while determining the seniority assigned at District level, also does not have any significance as while implementing the provisions of Amendment, 2017, the seniority at District level would have to give way to the amended provision and as no vested right is created, the petitioners cannot claim any relief based on the said aspect as well.

So far as the judgments cited by learned counsel for the petitioners are concerned, the same has no application to the facts of the case, inasmuch as, the provisions of Rule 4(b) and 301(1)(ii) of Rules of 1957 are required to be implemented with full vigour.

In view of above discussion, it is apparent that despite the cabinet decision dated 29.08.2013, the claim of the petitioners for reckoning of their service rendered as Gram Sewak for the post of Patwari and utilize the same for the purpose of date of joining in terms of Rule 301(1)(ii) of Rules of 1957 has no substance and consequently, the writ petitions filed by the petitioners are dismissed.