
(2020) 01 RAJ CK 0158
In the Rajasthan High Court
Case No : Civil Writ Petition No. 31 Of 2020

Lal Shankar Panchal

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 23-01-2020

Acts Referred:

Citation : (2020) 01 RAJ CK 0158

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Ravindra Singh

Final Decision : Disposed Of

Judgement

1. Learned counsel for the petitioner submits that the controversy in issue has already been decided by this Court in the matter of Devman Ram vs. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.15136/2017), decided on 25.10.2018, operative portion whereof reads as follows :-

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

A perusal of the order impugned dated 3/3/2016 (Annex.9) passed by the respondents would reveal that the only reason indicated by the respondents for rejecting the representations made by the petitioners is that the petitioners are not members of Alwar Division Irrigation Employees Union, nowhere in the order the respondents have dealt with and/or indicated that the petitioners do not possess the required qualification and as such the plea now sought to be raised in reply to the writ petitions cannot be countenanced.

In the case of Alwar Division Irrigation Employees Union (supra), this Court inter alia directed as under:

"Accordingly the writ petition is partly allowed and it is directed that the work charge employees who have been made permanent on completion of ten years of

service and who have been absorbed in the regular establishment of the State government shall be paid pay scale no.7 under the pay scale rules of 1989." Similarly, in the case of Narpat Singh (supra), this Court laid down as under:

"12. In view of the submissions made in writ petition whenever the pay scales were revised in the year 1981, 1983, 1986, 1989 and again in 1998 the Mistris appointed under 'Workcharge Rules' were treated equal to Mistris appointed under 'Rules, 1967'. Even otherwise the mistris of both the categories are doing same work. The Government had decided in the year 1988 to revise the pay scale of Mistris appointed under 'Rules, 1967' w.e.f. 1.9.81, which had created dissatisfaction amongst the petitioners, who have been discriminated. As such the revised pay scale rules as published by Government and made applicable to only one section of mistris, is discriminatory. After hearing counsel for petitioner, I agree with the submission of counsel for petitioners that the petitioners were equal to mistris appointed under 'Rules, 1967' and whenever there was any revision of pay scale, the incumbents of both the categories were being treated equal and they have discriminated only by the amendment in the year 1988, which has been reproduced above. Again in the year 1998 the petitioners have again been equated, meaning thereby the Government was of the opinion that because of work, qualification and being in the same department, the petitioners could not have been discriminated.

13. For the reasons mentioned above, it goes without saying that the writ petition deserves to be allowed with the direction to the respondents that the petitioners shall also be entitled to the same scale and wages equal to Mistris appointed under 'Rules, 1967', which pay scale was being paid to present petitioners throughout. The petitioners shall be entitled to the benefit of pay scale w.e.f. 1.9.81 as has been awarded to Mistris appointed under 'Rules, 1967', and consequential relief wages etc. shall be paid to petitioners. Such exercise shall be made within a period of two months from the date of receipt of copy of this order.

14. With the above observations, the writ petition is allowed. No order as to costs."

The case of the petitioners apparently is squarely covered by the judgments in the case of Alwar Division Irrigation Employees Union (supra) and Narpat Singh (supra) and, therefore, the action of the respondents in passing the order dated 3/3/2016 (Annex.9) rejecting the representations filed by the petitioners only on account of the fact that the petitioners are not members of the Alwar Division Irrigation Employees Union cannot be sustained, as merely because somebody is not a member of the union and is otherwise entitled to grant of relief, the same cannot be denied on the ground as indicated by the respondents.

Consequently, the writ petitions filed by the petitioners are allowed. The orders dated 3/3/2016 (Annex.9) passed by the respondents are quashed and set aside. The petitioners shall also be entitled to be paid Pay Scale No.7 under the Rules of

1989 with all consequential benefits as granted in the case of Alwar Division Irrigation Employees Union (supra) and Narpal Singh (supra). Needful may be done by the respondents within a period of six weeks from the date of this order."

2. In light of such limited submission, the present writ petition is disposed of with a direction to the respondents to decide the representation of the petitioner by passing a speaking order while keeping into consideration the judgment in Devman Ram's case (supra), within a period of thirty days from the receipt of representation.