
(1992) 01 RAJ CK 0043
In the Rajasthan High Court
Case No : C.W.P. No. 6112 of 1991

Lokesh Kumar Pareek and Another

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 28-01-1992

Acts Referred:

Citation : (1993) 1 LLJ 1219 : (1992) 1 RLW 578 : (1992) 1 WLC 708

Hon'ble Judges : M.B. Sharma, J

Bench : Single Bench

Advocate : A.K. Sharma, for the Appellant; J.M. Saxena, Dy. G.A., for the Respondent

Final Decision : Allowed

Judgement

M.B. Sharma, J.—A short controversy is involved in this writ petition and it is as to whether the petitioners and other similarly situated persons are entitled for payment of bonus or not?

2. It will appear from the perusal of Annexure-1 which is a certified copy of orders passed in two writ petitions Nos. 410/1989 and 424/1989 decided by this court on July 20, 1990, that this court had allowed both the writ petitions and had made the following order.

"I hereby allow both the writ petitions only to the limited extent that both the petitioners shall be entitled to the minimum pay in the scale of posts on which each of them was working and shall also be entitled to allowances according to rules. So far as the prayer that each of them should be regularised in the pay scale, learned counsel does not press it. Costs made easy."

3. It was also directed by this court that if any amount is payable as a result of that order to the petitioners shall be only payable from January 25, 1989 the date on which the writ petitions were filed. The amount shall be paid as soon as possible but in no case later than three months.

4. It is the case of the petitioners that they have been denied bonus which has been granted to other employees of the State Government whether they are temporary or permanent and who had completed atleast six months continuous service till the year 1989-90 under an order of the Government of Rajasthan, Finance (Gr. 2) Department under order No. F 1(65) FD (Gr.2)/86 dated September 24, 1990 and the subject was "Grant of adhoc bonus to employees for the year 1989-90". This facility has been denied to the petitioners on the ground that they are daily rated employees and casual employees and their case according to the department was governed by Clause (e) of the aforesaid Government order.

5. Reply has been filed on behalf of the respondents to the writ petition and it will appear from the perusal of the reply that each of the petitioner was appointed on daily wages. In the last part of para 6 of the reply, it has been stated that this court in its order dated July 26, 1990 had allowed only for payment of minimum of pay scale of the post and not allowed for regularisation of services in the pay scale. Thus, the petitioners continued to be casual workers, and the scheme under which the petitioners were engaged was a temporary plan, scheme, implemented through the Panchayat Samiti out of grant-in-aid funds. The engagement of the petitioners by the Panchayat Samiti under this temporary scheme is therefore, only of the nature of casual worker, and therefore, they are not entitled for bonus as per the provisions of the Finance Department order dated September 24, 1990.

6. It will be proper to extract the relevant part of the circular of the finance department dated September 24, 1990 and it is as under: -

"The matter relating to grant of adhoc bonus for the financial year 1989-90 to State Government employees has been considered and the Governor has been pleased to order that pending evolution of a formula, State Government employees may be granted adhoc bonus equivalent to 27 days emoluments for the financial year 1989-90 on the following terms and conditions:

(i) Only those employees who were in service on March 31, 1990 drawing emoluments upto Rs. 2,500/- per month in pre-revised/or revised scale of pay on March 31, 1990 and have rendered at least six months of continuous service during the year 1989-90 will be eligible for adhoc bonus under these orders. Pro-rata payment will be admissible to the eligible employees for periods of continuous service during the year ranging from six months to a full year, the eligibility period being taken in terms of number of months of service (rounded to the nearest number of months).

7. There are classifications and we are presently concerned with Clause (e) of the aforesaid classifications which reads as Under:

"Employees engaged on part time basis or at a daily wage will not be eligible for adhoc bonus."

8. This order was also made applicable to the employees of the Zila Parishad and Panchayat Samiti and to the work-charged employees who draw pay in the pay scale prescribed for them.

9. It will appear from the perusal of the aforesaid order that the order was made applicable to the employees of the Zila Parishads & Panchayat Samiti and the work charged employees who were drawing pay in the pay scales prescribed for them. But this order was not made applicable to casual/daily wages workers. No doubt each of the petitioner was appointed on daily wages initially. But the question is as to whether when the order dated September 24, 1990 was made whether they can still be said to be casual/daily rated workers and, therefore the benefit of order dated September 24, 1990 could be denied to them. A reference to the order of this court dated July 26, 1990 has already been made and it will appear from the aforesaid order that this court had allowed them the minimum pay in the pay scale of the post on which they were working from January 25, 1989. So far as the financial year 1989-90 is concerned, it is a period commencing from April 1, 1989 to March 31, 1990 and because each of the petitioner was given the minimum pay in the pay scale w.e.f. January 25, 1989 under the order of this court dated July 26, 1990, it can be said that for the period from April 1, 1989 to March 31, 1990, each of the petitioner had been in continuous service for a period of six months and therefore, it can be said as a result of the order of this court they will be entitled to payment of bonus under the aforesaid order.

10. When this court allowed the aforesaid writ petitions, this court did not fix any daily wages, but said that the petitioners shall be: entitled to minimum pay in the pay scale of the post on which they were working along with allowances. Though they were not made entitled to any compensatory allowance. It may be stated that as per the averment in the writ petition so far as Lokesh Kumar who was appointed as Supervisor under order dated December 12, 1987 though on daily wages and continued to be on that post till he came to this court and still he is continuing on that post. So far as Kailash Chandra is concerned, he was appointed as Instructor/Technician in the Motor Binding and House Wiring on March 29, 1988 and he too on daily wages. I fail to understand when each of the above named petitioners were continuing since 1987 and 1988 respectively, how can it be said that they were casual workers. From the date this court allowed their writ petitions, it cannot be said that they were appointed on daily wages. It may also be observed that when there are posts in the regular pay scale, it is the practice to appoint on daily wages and apart from anything it will be highly unjustified and unfair labour practice being adopted. I am of the opinion that so far as both the petitioners are concerned, they cannot be said to be casual/daily wages workers and if that be so, Clause (e) of the aforesaid finance department order dated September 24, 1990 will not be attracted in the case of any of the petitioner and they will be entitled to payment of bonus.

11. It may also be stated that it is common knowledge that bonus has been

declared by the State Government in subsequent financial years and the petitioners if they had continued and are eligible to bonus under the subsequent financial department's order for the subsequent financial years and as said earlier, they cannot be said to be casual employees or daily wagers, they should be paid bonus even for subsequent years and it will not be proper to ask them to file fresh writ petition and to get orders which are likely to be issued by this court or any other court as routine after this order. Even otherwise, I find no nexus with the object sought to be achieved in so far as casual/daily rated workers who have continuously worked for six(6) months in denying them bonus which is paid to the work charged employees and others.

12. Consequently, I hereby allow this writ petition and direct the respondents to pay bonus to each of the petitioner under order dated September 24, 1990. I will like to make it clear that a copy of this order be also sent to Department of Personnel so that it may be endorsed to each of the department that where this court might have made orders for minimum pay to daily wages and the cases of any of them is covered, they may be given the benefit of bonus, otherwise there will be a flood of cases. Costs made easy.