

(2009) 02 RAJ CK 0067
In the Rajasthan High Court

Madan Singh and Another	Vs	APPELLANT
Jai Narayan Vyas University and Others		RESPONDENT

Date of Decision : 16-02-2009

Acts Referred:

Citation : (2009) 02 RAJ CK 0067

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Judgement

Govind Mathur, J.—For getting executed the Resolution No. 174/1994 undertaken by Syndicate of the respondent University in its meeting dt. 08th March, 1990, this petition for writ is preferred.

2. In brief, facts of the case are that the petitioners are in employment of Rajasthan University as Garden Supervisor. The petitioner No. 1 is having Bachelor's Degree in Science with Post Graduation in Horticulture and petitioner No. 2 is having Bachelor's Degree in Science (Agriculture). The Syndicate of respondent University by Resolution No. 174/1994 resolved for change of nomenclature of the post of Garden Supervisor to Garden Inspector at par with the University of Rajasthan and further to revise the pay scale of the post concern from Rs. 1200- 2500 to 1400-2600 w.e.f. 01.09.1988. The Resolution aforesaid was made to have parity with the Garden Inspectors working with the University of Rajasthan. The petitioners by submitting various representations agitated their cause regarding implementation of the resolution, but no step in this regard was taken for quite a long time. The Assistant Registrar (Establishment), ultimately by a communication dt. 10.09.1996 informed the University Engineer (Building Cell), J.N. Vyas University, Jodhpur that the Government of Rajasthan was not in agreement to revise pay scales as per Resolution No. 174/1994.

3. The decision of the Government was communicated by a letter dt. 29.02.1996 from Officer-in-charge on Special Duty (Higher Education), Government of Rajasthan, relevant portion of that is quoted below:

I am not aware of the duties of Horticulture Inspector, the Persons placed under him, the qualifications for the above posts and the administrative duties assigned to the Inspector of Horticulture Department and unless two can be compared, the department will be unable to give its opinion.

Secondly, the posts in one department can not be upgraded in the other department because another department has upgraded some posts. The specific mention of Horticulture Department in the Finance Deptt. circular has been made to exclude all the posts of Garden Inspectors in the other department, even if they exist their.

Thirdly, this is not a cogent argument to change the nomenclature of the post because the scale has been revised and the incumbent working the Garden Supervisor's scale has been given the advantage of selection scale 9, 18 and 27 years treating it was isolated post which the University has already given to him and to change the nomenclature and provide an upgraded post will be the very negation of the above facility.

In the light of what has been stated above, you are requested to take a view at your level objectively.

4. The contention of the learned Counsel for the petitioner is that, as a matter of fact, the Government of Rajasthan never denied for grant of revised pay scale as per Resolution No. 174/1994, but instructed only to take appropriate decision at University level. It is also asserted that the Resolution of the University was not subject to any approval of the State and, therefore, the Resolution in question should have been implemented by the University.

5. No reply to the writ petition is filed on behalf of the respondent University, however, during course of arguments, it is informed by learned Counsel for the University that in light of the letter dt. 29.02.1996, the Syndicate of the University has already revoked its earlier Resolution i.e. 174/1994.

6. Heard learned Counsel for the parties.

7. The Syndicate of respondent University, while discharging its legislative functions resolved for change of nomenclature of the post of Garden Supervisor as Garden Inspector. With a view to maintain parity with the Garden Inspectors working with the University of Rajasthan, a decision was also taken to revise the pay scales of newly designated Garden Inspectors. It appears that looking to the financial burden occurring due to revision in pay scales, the University sought approval from the Government of Rajasthan, before implementing the resolution aforesaid. The Government of Rajasthan under the letter dt. 29.02.1996, while making certain comments about nature and duties of the post concern, left it open for the University to take necessary decision at its own level. By the letter dt. 29.02.1996, the State Government nowhere decided to disallow revision of the pay scale. If the University has withdrawn its Resolution merely on basis of communication dt. 29.02.1996, then it is certainly erroneous. As a matter of

fact, the University should have made all efforts to verify the facts to make equivalence of the Garden Supervisors working with it with the Garden Inspectors of Rajasthan University. The letter dt. 29.02.1996 emphasized only for such objective consideration. A responsible body like Syndicate normally acts with cogent reasons, therefore, the presumption is that the Resolution regarding change of nomenclature and maintaining parity in the pay scales must have been taken after considering all relevant aspects. Such Resolution undertaken deserves to be presumed as an objective one, except proved otherwise. Resolution undertaken by a Statutory body like Syndicate deserves high esteem and all necessary regards must be extended to it and Government is not suppose to ignore such decision. In the present case an Officer of the Government has given an opinion about the resolution but there is no denial or refusal of the State for the decision taken.

8. In view of whatever stated above, this Court is of the view that implementation of Resolution No. 174/1994 should have been made by the University. However, as stated by learned Counsel for the respondents, the Resolution aforesaid has been withdrawn by the Syndicate in light of letter dt. 29.02.1996, it shall not be appropriate to issue any direction to execute a resolution which is non-existent. However, a direction to the University can certainly be given to place the matter regarding change of nomenclature of the post of Garden Supervisor as Garden Inspector and for grant of revised pay scales in parity with Garden Inspectors working with the University of Rajasthan afresh before the Syndicate for reconsideration.

9. Accordingly, this petition for writ is disposed of with a direction to the respondent University to place before Syndicate the issue regarding change of nomenclature for the post of Garden Supervisor as Garden Inspector and also for grant of revised pay scales to such Garden Supervisor in parity with Garden Inspectors working with the University of Rajasthan, for consideration afresh.