
(2015) 09 RAJ CK 0112
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2953/2012

Mahfooj Ali and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 11-09-2015

Acts Referred:

Citation : (2015) 09 RAJ CK 0112

Hon'ble Judges : Arun Bhansali, J.

Bench : Single Bench

Advocate : H.S. Sidhu, for the Appellant; N.K. Mehta, AGC, for the Respondent

Final Decision : Allowed

Judgement

Arun Bhansali, J.—This writ petition has been filed by the petitioners, inter alia, seeking direction to the respondents to treat them semi permanent on the post of Helper w.e.f. 03.08.1992 and give consequential effect to the same.

2. It is, inter alia, submitted in the writ petition that the petitioners were working as Work Charged Employees with the respondent-Department. By circular dated 21.02.1992 issued by the State Government, it was stipulated that the persons working on daily wages, may be conferred status of semi permanent on the post of Helper and Beldar based on their fulfilling the educational qualification. Pursuant to the said circular, the petitioners, though eligible to be made semi permanent on the post of Helper, by order dated 30.03.1993 (Annex.P/2) were granted semi permanent status on the post of Beldar. The petitioners have further indicated that in all the Circles of Sriganganagar Division, the employees, who were holding the required qualification as Helper i.e. 8th Pass, were given semi permanent status as Helpers except for the Circle of Suratgarh, where the petitioners were working. However, later on vide order dated 27.07.1996, the petitioners were granted semi permanent status as Helpers. Whereafter, the petitioners continued to represent with the respondents to grant them semi permanent status w.e.f. 03.08.1992 when the such status was conferred in other

Circles.

3. The officers of respondent-Department, from time to time forwarded the representations made by the petitioners to higher authorities with a specific indication therein that on account of mistake the petitioners were conferred status as Beldars instead of Helpers and, therefore, the needful may be done. In this regard, the petitioners have placed on record Annex.-P/9 and Annex.-P/10.

4. The association of the petitioners also made representation (Annex.-P/11), wherein the same was responded by indicating that the matter was pending with the Administrative Department. Whereafter, by communication dated 23.12.2005 entire list of persons, who were deprived of the said status w.e.f. 03.08.1992 was sent by the Executive Engineer to the Superintending Engineer, however, no action has been taken by the respondents on the entire aspect.

5. It is submitted by learned counsel for the petitioners that the entire material available on record clearly indicated that but for the inaction of the respondents, the petitioners are eligible and were entitled to grant of semi permanent status w.e.f. 03.08.1992, however, the same has been wrongly conferred on them w.e.f. 27.07.1996 and, therefore, the respondents be directed to do the needful.

6. Learned counsel for the respondents submitted that the petition filed by the petitioners is highly belated and they have been conferred status from the date they were entitled and, therefore, the writ petition filed by the petitioners deserves to be dismissed.

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

8. So far as the objection raised by the learned counsel for the respondents regarding delay is concerned, no such objection has been raised in the reply to the writ petition so as to provide opportunity to the petitioners to explain the same. Besides the above, it is apparent that but for the inaction and/or grant of proper sanction by the respondents, the petitioner, who otherwise are entitled for grant of relief have been refused or are being deprived of the same for no fault of the said petitioners and, therefore, on account of mere delay, it cannot be said that the petitioners would not be entitled to maintain the present writ petition.

9. A bare look at the communication Annex.-P/7, written by the Executive Engineer to the Superintending Engineer and Annex.-P/8, written by the Superintending Engineer to the Chief Engineer, reveal that so far as the officers of the department is concerned, they have been specifically admitted their mistake on account of their ignoring the qualifications of the petitioner and in merely conferring status of Beldar on all the persons involved irrespective of their qualification. Further both the authorities have specifically recommended that the petitioners would suffer compared to the persons in other Circles of the same Division on account of such anomaly and, therefore, they must be granted the relief and the matter has been forwarded for doing the needful. However,

apparently on account of inaction on part of the respondents in taking a decision on the recommendations despite repeatedly being reminded by the petitioners and the documents pertaining to the employees involved having been sent no decision has been taken, which inaction on part of the respondents cannot be sustained.

10. In view of the above discussion, the writ petition filed by the petitioners is allowed. The respondents are directed to consider the case of the petitioner for conferring the semi permanent status w.e.f. 03.08.1992 on the post of Helper and grant of consequential benefit in relations to such conferment w.e.f. 03.08.1992 within a period of two months.

11. However, in view of the fact that the petitioners have approached this Court with delay, it would be appropriate to grant them notional benefits of fixation etc. on account of such conferment and the effect would be given in their salary, if any, w.e.f. September, 2015.

12. No order as to costs.