(1998) 04 RAJ CK 0016

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2857 of 1987

Nagraj Jain APPELLANT

Vs

The State of Rajasthan and Another RESPONDENT

Date of Decision : 27-04-1998

Acts Referred:
Payment of Bonus Act, 1965 — Section 6, 7

Citation : (1998) 3 RLW 1551 : (1999) 2 WLC 725 : (1998) 1 WLN 350

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—The petitioner union has prayed that the respondent State Government be restrained from crediting any instalment of Dearness Allowance or arrears of Dearness Allowance of the employees to their General Provident Fund account and prayed that Rule 21-B of the Rajasthan Service Rules, 1951 (for short, ''the Rules'') be declared as unreasonable arbitrary and ultra vires to the provisions of the Constitution.

2. Shri Choudhary, learned Counsel for the petitioner relying upon the judgment of this Court in case of Rajasthan State Ware Housing Corporation v. The Authority Appointed under the Payment of Wages Act. Jaipur reported in 1987 (1) RLR 536, submitted that Rule 21-B of the Rules is in consistent with the provisions of Section 6 of the Payment of Wages Act, 1936 (for short, the Act''). He submitted that wages should be paid in current coin or currency notes and the State Government cannot deposit the arrears of Dearness Allowance or instalments of Dearness Allowance in the General Provident Fund Account of the Employees. It amounts to deduction from the salary, which is not permissible u/s 6 of the Act, 1936.

3. In State Ware Housing Corporations'' case (supra) the facts were totally different. The question arising in those revision petitions was that, "Whether the

Rajasthan State Ware Housing Corporation can deposit the arrears of Dearness Allowance admissible to its employees in the General Provident Fund Account (G.P.F.) or some similar account and not pay in cash and would deposit in such G.P.F. or other account amount to deduction of Wages u/s 7 of the Payment of Wages Act or not?" It is interesting to note that in para 17 of the aforesaid judgment, the learned Single Judge of this Court has observed that:

On the fact of it this argument appears to be attractive that the employees of the State Government will have to forego the arrears of clearness allowance by getting them deposited in the general provident fund account while the employees of the Corporation shall be getting the same in cash and it may be said to be treating different employees differently. However, it may be mentioned that the provisions of Sections 6 and 7 of the Wages Act are to applicable to employees of the State Government.

4. This clearly shows that there is a separate provision for the State Employees and there is a purpose behind enacting Rule 21-B in the Rajasthan Service Rules, which authorises the State Government to credit the instalment of Dearness Allowance or arrears of Dearness Allowance to the G.P.F. Account in accordance with the order issued by the Government from time to time. There is a reasonable classification, therefore, it cannot be said that Rule 21-B of the Rules is any way arbitrary.

5. In view of the above discussion, I do not see any merit in this case. It fails and is dismissed.