
(2010) 11 RAJ CK 0159
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6921 of 2004

Prabhu Lal Sharma

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 24-11-2010

Acts Referred:

Citation : (2010) 11 RAJ CK 0159

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mohammad Rafiq, J.—This writ petition has been filed by Petitioner with prayer that Respondents be directed to step up his pay at par with pay of his junior Shri Gappu Lal Jain. It is contended that both, Petitioner and Shri Gappu Lal Jain, were working on post of Patwari; they were appointed on said post on substantive basis vide office-order dated 07.04.1971, wherein Petitioner was at Serial No. 28 and name of Gappu Lal Jain was at Serial No. 29. Petitioner was promoted as Zildar on ad-hoc basis with effect from 24.04.1976 and his junior Shri Gappu Lal Jain was promoted on this post on ad-hoc basis with effect from 01.05.1976. Both of them were regularized in the post on recommendations of selection-committee by order of competent authority dated 30.06.1978, in which Petitioner was placed at serial No. 40 and his junior Gappu Lal Jain was placed at Serial No. 42. Shri Gappu Lal Jain's pay was fixed at Rs. 2050/- in pay scale of 1400-2600 and selection scale of post of Zildar was 2000-3200, therefore, Shri Gappu Lal Jain was fixed at Rs. 2240/- in the selection scale with effect from 25.01.1992. Petitioner retired on attaining age of superannuation on 31.03.1993 but his pay was fixed only at Rs. 2060/- while Shri Gappu Lal Jain, who retired only after ten months after retirement of Petitioner, was fixed at Rs. 2260/- after giving one increment raising his pay from 2240 to 2260.

2. It is contended that in year 1993 when Petitioner retired, Shri Gappu Lal Jain was drawing his basic pay at Rs. 2240/-, therefore at-least on that date pay of

Petitioner should have been at par with him whereas Petitioner's basic pay was only at Rs. 2060/-. Further contention is that this anomaly in fixation of pay arose on account of fact that benefit of one extra annual grade increment was given to Shri Gappu Lal Jain by order dated 01.09.1981 passed by Chief Engineer of Department with effect from 24.02.1979, whereas similar benefit, which ought to have been given to Petitioner was not granted to Petitioner, was not granted to him for inadvertence and negligence of Respondent Department and therefore this difference in pay fixation occasioned. It is therefore prayed that in terms of Rule 35-A of Rajasthan Service Rules and orders issued by Department of Personnel from time to time, the pay of Petitioner ought to be stepped up at par with that of his junior Shri Gappu Lal Jain and Petitioner should be held entitled to all consequential benefits.

3. Shri Hemant Mathur, Deputy Government Counsel appearing on behalf of Respondents, opposed writ petition and submitted that Petitioner and Shri Gappu Lal Jain were working in different offices of Irrigation Department. While Shri Gappu Lal Jain applied for stepping up of his pay with his junior Shri Zamaluddin, Zildar, and thereby his pay was stepped up to Rs. 550/- on 24.02.1979 and after next increment on 01.09.1979 his pay was fixed at Rs. 570/-. Pay of Petitioner on 01.09.1979 was at Rs. 530/-. After that, as per selection scale dated 25.01.1992 Gappu Lal Jain's pay was fixed at Rs. 2240/- from Rs. 2050/- vide order dated 17.05.1994, whereas Petitioner was fixed at Rs. 2060/-. Hence the anomaly arose in pay of Petitioner and Shri Gappu Lal Jain but no request was made by Petitioner for removal of this anomaly and he continued to accept such pay for number of years.

4. From what has been stated by Respondents in reply and what has been argued by their counsel before this Court, I find no justification why salary of Petitioner was not paid at par with his junior Shri Gappu Lal Jain. In fact what has been stated by Respondents is that this anomaly occasioned due to mistake on their part in not making revision of pay fixation in the case of Petitioner and in granting him due increment because they have stated that Petitioner should have timely made representation for correction of this anomaly, when Shri Gappu Lal Jain requested for stepping up of his pay at par with his junior Shri Zamaluddin. It is expected of government that when similarly situated person is extended some benefit, the same ought to be extended to other similarly situated employee. In present case admittedly Respondents have not been able to justify why pay of Petitioner was not stepped up at par with that of his junior Shri Gappu Lal Jain.

5. In result this writ petition is allowed. Respondents are directed to step up pay of Petitioner at par with that of his Junior Shri Gappu Lal Jain from stage to stage and time to time and accordingly also re-fix his pay at various levels including grant of selection scale and increments accordingly. His retiral/pensionary benefits should also be revised in terms. He shall be entitled to arrears thereof and all consequential benefits together with interest thereon at rate of 6% per

annum.

6. Compliance be made within a period of three months from date a copy of this order is produced before the Respondents.