
(2011) 05 RAJ CK 0081

In the Rajasthan High Court

Case No : Civil Writ Petition No. 6050 of 2011

Prem Bihari Meena and Others

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 06-05-2011

Acts Referred:

Citation : (2011) 05 RAJ CK 0081

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Judgement

Ajay Rastogi, J.—Counsel for Petitioners submits that Petitioners having worked for more than five years, as alleged, on the post of Nodal Prerak/Prerak and are rendered services in adult education to teach adults of the age in between 15-35 years in State of Rajasthan under National Literacy Mission Program of Human Resources Department, Government of India. However, the Scheme continued but the Respondents changed nomenclature of the post held under National Literacy Mission Program; as a result whereof, when writ Petitioners were not permitted to work, they have preferred writ petitions, which were decided by this Court.

2. Counsel for Petitioners jointly submit that these Petitioners are poor employees and once this Court has finally decided the controversy, the judgment may be made applicable in rem and each Applicant may not be called upon to seek same relief as granted obviously in terms of modification made by Division Bench.

3. Counsel for Petitioners further submits that the controversy raised herein was initially examined & decided by co-ordinate Bench of this Court vide order dt. 30/06/2009 in Ramjeet Singh and Ors. Union of India and Ors. (CWP-4119/2009 & cognate petitions) and in para 7 & 8 it was observed ad infra:

I have gone through the record of the writ petitions and considered the rival submissions of the parties. In my view, the letter dated 19.01.2009 clearly

reveals that the revised scheme is to be implemented instead of old scheme, hence, mere change of the scheme will not result in unemployment and fresh selection. However, the Petitioners cannot claim the wages of the intervening period on account of non allotment of the budget.

The action of the Respondents envisages the impugned orders of termination of the present Petitioners is declared illegal and the Petitioners are allowed to continue on their respective posts till the scheme of "Lok Talim" is implemented. However, they will be entitled for continuity in service but not entitled to fixed remuneration for the intervening period in case the scheme of "Lok Talim" is implemented.

4. Against the order dt. 30.06.2009 (supra), DB Civil Special Appeals (517/2010 and cognates appeals) were preferred by the State of Rajasthan and have been dismissed by common judgment dt. 01.10.2010 and the relief granted by the learned Single Judge has been modified and finally observed as under:

To the recourse proposed by the learned Counsel appearing on behalf of the Respondents, counsel for the Appellants has no objection. Hence, the order of the Single Bench is accordingly modified to the extent that it would be open to the Appellants to screen the candidates for the purposes of ensuring that they are holding the requisite qualification under the new scheme and adjustment of such incumbent shall be made at other centre in order to ensure the composition as per the new scheme of one man and one woman candidate at one centre is maintained and services of only those candidates be discontinued who are not qualified or it is not possible to accommodate them. However, while doing so, no discrimination be made between the incumbents and rule of last come first go shall be adhered to.

5. Counsel for Petitioners further submit that in light of the order of learned Single Bench with the modification made by the Division Bench, instant bunch of petitions may be disposed of.

6. It certainly goes without saying that once the modification has been made by the Division Bench of this Court, the Government is under obligation to follow the directions of the Division Bench; and taking note of the submissions made (supra), this Court considers it appropriate to observe that once the controversy has been finally decided by the Division Bench, it must be applicable in rem to all similarly situated employees who are economically weaker section of the society and the Respondents are further directed to consider candidature of all such persons similarly situated in terms of the judgment of Division Bench (supra).

7. In light of the order passed by learned Single Bench with the modification made by the Division Bench vide judgments quoted (supra), writ petition are accordingly disposed of; and Petitioners are also entitled mutatis mutandis for the same benefits as granted by Division Bench of this Court vide judgment dt. 01/10/2010 (supra) - for which they may submit fresh representation to competent authority who may examine their grievance in the light of judgment

(supra) and pass a speaking order in accordance with law within two months thereafter.