

(2018) 05 RAJ CK 0021

In the Rajasthan High Court

Case No : Special Appeal Writ No. 1036 of 2014

Rajasthan Financial Corporation

APPELLANT

Vs

Mangi Lal Gurjar And Ors

RESPONDENT

Date of Decision : 03-05-2018

Acts Referred:

Constitution of India, 1950 — Article 225
Rajasthan High Court Rules 1952 — Rule 134

Citation : (2018) 05 RAJ CK 0021

Hon'ble Judges : GOPAL KRISHAN VYAS, J;G R MOOLCHANDANI, J

Bench : Division Bench

Advocate : Manjeet Kaur, RD Rastogi, Lokesh Sharma

Final Decision : Dismissed

Judgement

The instant special appeal has been filed by the appellant Rajasthan Financial Corporation under Article 225 of the Constitution of India read with Rule

134 of the Rajasthan High Court Rules against the judgment dated 25.3.2014 passed by the learned Single Judge in SBCWP No.625/1998 whereby

the writ petition filed by the respondent workman was allowed on the basis of adjudication made by the Honâ??ble Supreme Court in the case of

Secretary State of Karnataka Vs. Uma Devi reported in (2006) 4 SCC 1.

After hearing learned counsel for the parties, it emerges from the facts that the respondent workman was initially appointed with the appellants on

7.10.1987. His services were abruptly terminated on 31.8.1988, therefore, an industrial dispute was raised by the respondent workman in which after

reference, the Judge Labour Court, Jaipur vide its award dated 14.7.1997, set aside the termination order and issued direction to reinstate the

respondent workman with continuity of service alongwith back wages, but gave

direction that he shall be entitled for the salary /wages which are being paid to the person immediately junior to him or otherwise on daily wage basis.

In compliance of the aforesaid award, he was reinstated in service, but allowed salary on daily wage basis vide communication dated 5.9.1997. The respondent workman preferred writ petition before this Court for quashing the order of reinstatement dated 5.9.1997 to the extent that appellants may kindly be directed to provide regular pay scale and benefit of regularization w.e.f. 14.6.1994, the date, his junior person Sh. Mahesh Kumar Bairwa was allowed the said benefit.

The writ petition filed by the respondent workman was allowed by the learned Single Judge vide judgment dated 25.3.2014.

The instant special appeal has been filed against the said judgment passed in SBCWP No.625/1998 whereby the learned Single Judge while allowing the writ petition passed an order to regularize the services of the respondent employee w.e.f. 14.6.1994, the date when services of his immediate junior person Sh. Mahesh Kumar Bairwa were regularized, but passed an order for notional benefits for intervening period and passed an order to pay actual benefit from the date of passing of order of regularization and it is also ordered that compliance of the judgment shall be made within a period of three months from the date of receiving certified copy of the order.

Learned counsel for the appellant submits that the judgment of learned Single Judge impugned in this appeal is not sustainable in law because the judgment in the case of Uma Devi (supra) is not applicable in the present case because though he has completed 10 years of service, but there is no vacancy in existence, upon which, his case can be considered for regularization or for grant of regular pay scale. Learned counsel for the appellant vehemently argued that in case of Uma Devi (supra), the Honâ??ble Supreme Court though gave direction to regularize the services of an employee after completing 10 years of service, but there was rider that the said benefit of regularization may be given if any vacancy is in existence. Therefore, the order impugned may kindly be quashed.

Learned counsel appearing for the respondent vehemently argued that the award passed by the Judge, Labour Court, Jaipur was not challenged by the appellant corporation, more so, it was complied with to the extent of

reinstatement, but benefit of pay scale and regularization was not allowed in spite of the fact that the said benefit was extended to the similarly situated person Sh. Mahesh Kumar Bairwa and if the services of Sh. Mahesh Kumar

Bairwa who was engaged like the respondent, then there is no question to deny the benefit of regularization and pay scale to the respondent workman,

therefore, the learned Single Judge while considering the judgment in the case of Uma Devi (supra), specifically gave direction for granting benefit of

regularization w.e.f. 14.6.1994, the date when services of immediate junior person Sh. Mahesh Kumar Bairwa, were regularized.

After hearing learned counsel for the parties, it emerges from the facts that the award was passed in favour of the respondent by the Judge, Labour

Court, Jaipur against his termination from services and specific direction was issued to reinstate the respondent workman with continuity of service

and further it was specifically ordered that the respondent workman will be entitled for wages which is paid to the person who was immediate junior

than him,. Otherwise he will be entitled for wages on daily rate basis. The said award passed by the Judge, Labour Court on 14.7.1997 attained finality

because it was not challenged by the appellant corporation.

The learned Single Judge specifically considered the fact that respondent is working since 1987 and Sh. Mahesh Kumar Bairwa was appointed on

daily wage basis on 1.2.1993 and his services were regularized w.e.f. 11.6.1994, therefore, obviously, as per the judgment and award of Judge, Labour

Court, Jaipur he was to be granted benefit of regularization w.e.f. 14.6.1994.

In our opinion, when judgment of Judge, Labour Court, Jaipur attained finality, then obviously, the directions issued by the Judge, Labour Court, Jaipur

in the award dated 14.7.1997 was to be complied with in its true spirit. Admittedly, the appellant corporation is not disputing the appointment of Sh.

Mahesh Kumar Bairwa on 1.3.1993 and regularization of his services w.e.f. 14.6.1994, therefore, in our opinion, no error has been committed by the

learned Single Judge to allow the writ petition and to grant benefit of regularization and pay scale at par with Sh. Mahesh Kumar Bairwa. It is true

that in the case of Uma Devi (supra), the Honâ??ble Court issued certain directions in para no.53 for granting benefit of regularization of those

employees who were appointed against the post and completed 10 years of service, but here in this case, admittedly, the respondent workman is

working since 1987 till today and in the year 1993, one Sh. Mahesh Kumar Bairwa was appointed like respondent and his services were regularized

w.e.f. 14.6.1994, therefore, it cannot be said that respondent workman is not entitled for the relief as granted by the learned Single Judge while

affirming the directions issued by the Judge, Labour Court, Jaipur.

In view of the above, we are of the opinion that there is no force in this appeal because the judgment of the learned Single Judge is perfectly in

consonance with law.

Accordingly, the instant special appeal is hereby dismissed. However, it is expected from the appellant that all the benefits as granted by the learned

Single Judge will be made available to the respondent within a period of two months from the date of receiving certified copy of this order.