
(2014) 01 RAJ CK 0010

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3708 of 2011

Rajasthan Rajya Shikshit Karyaprabhari Karmchari Sanghthan	APPELLANT
Vs	
State and Others	RESPONDENT

Date of Decision : 29-01-2014

Acts Referred:

Citation : (2015) 2 RLW 938

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Advocate : Ashok Gaur, Sr. Advocate and Ajay Choudhary, Advocates for the Appellant; Hari Bareth, Deputy Govt. Counsel, Advocates for the Respondent

Judgement

Mohammad Rafiq, J.—This writ petition has been filed by Rajasthan Rajya Shikshit Karyaprabhari Karmchari Sanghthan with the prayer that the resolution dated 14.10.2010 passed by the Committee headed by Secretary, Public Works Department be set aside and appropriate direction be given to the respondents to grant benefits of semi permanent to the persons shown in Schedule A from the date of their appointment on the post of Store Munshi with all consequential benefits. Shri Ashok Gaur, learned senior counsel for the petitioner contended that members of the petitioner-union were initially appointed as Beldar/Chowkidar/Road Mistri/Godami on work charge basis. They possessed the requisite qualification of secondary and equivalent thereto, but, in fact, they are discharging their duties on the post of Store Munshi since their initial appointment. Some of the work charged employees were regularised on the post of Store Munshi and were given the status of semi permanent on that post by the respondents themselves. In this regard, instances of Girjesh Kumar Sharma, Smt. Snehlata Sharma, Sanjay Kumar, Bhawani Sahai Basniwal and Raj Kishore Pareek have been given. It is contended that they were granted such benefits pursuant to the orders passed by this Court.

2. Petitioner-union also represented to the respondents. The State Government upon considering their grievances has by order dated 12.9.2008 sanctioned 250

posts of Store Munshi in the pay scale of 3050-4950. When the members of the petitioner-union were not granted the semi permanent status on the post of Store Munshi despite their actual working on the post of Store Munshi and creation of regular post, they approached this Court by filing writ petition. This Court by order dated 23.4.2010 directed the respondents to have the grievance of the petitioner examined by constituting a committee which was directed to decide the issue within a period of four months. The petitioner submitted a detailed representation to the respondents on 29.4.2010. The respondents constituted a Committee consisting of Chief Engineer & Additional Secretary to the Government in Public Works Department, Chief Engineer (Building), Financial Advisor, Joint Legal Remembrancer, Public Works Department, Superintending Engineer cum T.A. 1, Public Works Department and Senior Personnel Officer, Public Works Department. The Committee in its report dated 2.7.2010 observed that some of these 29 employees were actually getting benefit of pay of Store Munshi with semi permanent status on notional basis and some of them have been granted such benefit pursuant to the judgments passed by this Court. It was therefore recommended that these 29 employees on the basis of their educational qualification of secondary or higher educational qualification, may be granted semi permanent status on national basis from the date of their initial appointment by deeming it to be a promotion and salary in the pay scale No. 6 be granted to them, but this recommendation was forwarded to the Finance Department. The Committee referred to above passed their resolution dated 14.10.2010 and has rejected their recommendation. Hence the petitioner-Sangthan was constrained to file this writ petition.

3. Learned counsel for the petitioner has argued that the High Level Committee in its impugned report has not applied its mind to the recommendation made by the first Committee. It has only rejected the recommendation saying that benefits have been granted to some of the employees only on the basis of judgments of this Court. It is submitted that the said Committee has wrongly relied on the judgement of Supreme Court in Secretary, State of Karnataka and Others Vs. Umadevi and Others, , which pertains to the case of regularisation and not of grant of semi permanent or permanent status on the post on which the employees were already discharging their duties. Learned counsel relied on the judgement of this Court in Lal Chand Sharma v. State of Rajasthan & Ors., S.B. Civil Writ Petition No. 4838/1996, decided on 2.2.2010 and subsequent judgement of this Court in Rajendra Prasad Sharma & Ors. v. State of Rajasthan & Ors. S.B. Civil Writ Petition No. 4955/2008, decided on 30.3.2010.

4. Shri Hari Bareth, learned Deputy Govt. Counsel opposed the writ petition and submitted that benefit on account of parity cannot be extended to the members of the petitioner union as it is not in conformity with law. In the case of others, such benefits were extended only because of the judgement passed by this Court. Reliance is placed on the judgement of Uma Devi, supra.

5. This Court in Lal Chand, supra on the similar controversy has directed as

under:--

"Accordingly, the writ petition succeeds and the same is hereby allowed. The respondents are directed to declare the petitioner semi permanent and so also permanent on completion of two years and ten years of service on the post of Store Munshi of which duties are being discharged by him under Rule 3(3) and 3(2) of the Rules, 1964 with all consequential benefits. The respondents, shall ensure the compliance within three months. No costs."

6. The aforesaid judgment was followed by coordinate bench of this Court in Rajendra Prasad Sharma, supra. The respondents in reply to the writ petition though have contested the claim of the petitioner-union but have not seriously disputed the fact that the members of petitioner-union have actually been discharging the duties on the post of Store Munshi and as asserted by them from the date of initial appointment and that others namely; Girjesh Kumar Sharma, Smt. Snehlata Sharma, Sanjay Kumar, Bhawani Sahai Basniwal and Raj Kishore Pareek have been granted such benefits. Their contention is that other similarly situated persons were granted such benefits pursuant to the judgement of this Court. Admittedly, the judgement passed this Court having been implemented by the respondents and not challenged any further has attained finality. And even if challenge has been made, that did not result in its reversal. There is no reason why similar benefits may not be extended to the petitioners. In the result, the writ petition is allowed. The respondents are directed to declare the members of petitioner-union semi-permanent and so also permanent on completion of service of two years and ten years respectively, on the post of Store Munshi of which duties are being discharged by them under Rule 3(3) and 3(2) of the Rules, 1964 with all consequential benefits. The respondents shall ensure the compliance within three months. No costs.