
(2004) 01 RAJ CK 0001
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3321 of 1994

Ramji Lal Jain

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 16-01-2004

Acts Referred:

Rajasthan Pension Rules, 1996 — Rule 45

Citation : (2004) 1 RLW 524 : (2004) 1 WLC 732

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Advocate : A.S. Khangarot, AGA, Narendra Jain, for the Appellant; Vinod Singhal, for the Respondent

Final Decision : Allowed

Judgement

Parihar, J.—There is no dispute that the petitioner was initially appointed as Gram Sevak in the year 1953. Thereafter he was promoted on the post of Panchayat Extension Officer w.e.f. 1.1.1965. Subsequently being selected on the post of Vikas Adhikari, the petitioner was posted as Vikas Adhikari in Panchayat Samiti Kathumar on 1.2.1980. The petitioner continued to work as Vikas Adhikari till his date of retirement, i.e. 30.9.1992. Having denied revision of pay-scale on the post of Vikas Adhikari and further pension and other retrial benefits on the basis of last pay drawn by him from the post of Vikas Adhikari, the present writ petition has been filed by the petitioner with the prayers, as referred above.

2. The only defence as taken by the respondents in the reply has been that at the time of retirement, a disciplinary inquiry was already pending against the petitioner and subsequent to the retirement, a punishment of stoppage of 20% pension for five years was imposed on the petitioner.

3. As has already referred above, the fact of petitioner been appointed as Vikas Adhikari and retired as Vikas Adhikari has not been disputed so far. As such, there is not justification for denying him revision of pay-scale which was made

effective from 1.9.1988.

4. Furthermore, Rule 250(C)(2) of the Rajasthan Service Rules as it existed at the relevant time, clarifies the emoluments on the basis of which the retiral benefits have to be calculated. As per the above Rule, even if a government servant who is officiating in other higher appointment while retaining him on substantive post, the officiating pay drawn immediately before retirement shall be taken into account for the purpose of emoluments so as to calculate retiral benefits. The word "emoluments" has again been defined in the same manner in Rule 45 of the Rajasthan Pension Rules, 1996 and the same is reproduced here as under: -

"45. Emoluments:- The expression "emoluments" used for the purpose of pension, Service Gratuity and retirement/Death Gratuity means pay as defined in Rule 7(24) of Rajasthan Service Rules which a Government servant was receiving/or to which he was entitled to immediately before his retirement or on the date of his death:

Provided that special pay (excluding dual change allowance)/Non Practicing Allowance/Non Clinical Allowance and Rural Allowance drawn by a Government Servant shall be treated as part of pay on the basis of average of last ten months immediately before the date of retirement.

Provided further that the amount of Dearness Allowance admissible on basic pay at the time of retirement/death of a Government servant, as the case may be, shall be treated as part of employments for the purpose of grant of retirement gratuity/death gratuity.

5. In the present case, selection and posting of the petitioner as Vikas Adhikari has not been disputed so far. It has also not been disputed that the petitioner was not drawing the salary in the pay-scale of Vikas Adhikari at the time of his retirement. As such, there is not justification, whatsoever, given by the respondents as to how the pension and other retiral benefits could be paid to the petitioner for the post of Panchayat Extension Officer. Pendency of disciplinary inquiry and subsequent punishment of stoppage of 20% pension for five years has no relevance at all so far as the payment of revision of pay- scale as also the retiral benefits on the basis of salary last drawn by the petitioner at the time of his retirement are concerned.

6. Accordingly the writ petition is allowed. Respondents are directed to revise the pay-scale of petitioner on the post of Vikas Adhikari as revised w.e.f. 1.9.1988 and further after making due revision, make the payment of pension and other retiral benefits calculating the same on the basis of the pay the petitioner would have received at the time of his retirement after the above revision. The petitioner shall also be entitled for interest @ 12% per annum on the arrears w.e.f. 1.10.1992. Necessary exercise be made and arrears be paid to the petitioner within 60 days from the date of receipt of certified copy of this order. Revised PPO and GPO may also be issued accordingly. The respondents, however,

shall be at liberty to deduct the remaining amount of punishment from the arrears. Since the petitioner has been denied his due legal benefits without any rhyme or reasons, the respondents are further directed to pay a cost of Rs. 20,000/- to the petitioner alongwith the arrears, as ordered above.