

(2011) 01 RAJ CK 0053

In the Rajasthan High Court

Case No : Civil Writ Petition No. 14128 of 2010 and Civil Miscellaneous Stay Application No. 6845 of 2010

Sarjeet Singh

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 12-01-2011

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2011) 01 RAJ CK 0053

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mohammad Rafiq, J.—Learned Counsel for Respondents have cited judgment of coordinate bench of this Court in Chhagan Lal Sharma and Ors. v. State of Rajasthan and Ors. Writ Petition No. 8270/2010, decided on 03.12.2010 along-with 42 writ petitions, and argued that similar writ petitions were dismissed by the coordinate bench on basis of judgment of Single Bench at Principal Seat of this Court at Jodhpur in Usha and 7 Ors. v. State and Ors. Writ Petition No. 6116/2010, whereby Writ Petition No. 6116/2010 came to be dismissed along-with cognate matters. Judgment of coordinate bench of this Court in Writ Petition No. 8270/2010 is quoted in extenso:

In this bunch of petitions, since a common question has been raised, hence being decided by the present order.

All the Petitioners are working as Pharmacist/Clerk/Computer Operator under Mukhya Mantri BPL Jeevan Raksha Kosh have approached this Court assailing their termination from service and seeking further direction to continue in services till continuance of aforesaid Scheme.

Similar bunch of writ petitions raising common questions were filed before the Main Seat at Jodhpur in CWP-6116/2010 (Usha and (7) Ors. v. State and Ors.) &

cognate cases which came to be dismissed vide judgment dt. 30/08/2010 with the following observations:

10. The contents of service of the present Petitioners was neither stipulated nor intended to be co-terminus with the BPL MM JRL Scheme itself. Therefore, even though the Scheme continues, if the number of posts have been abolished and the same have been curtailed to 886 as per the Table given above, no exception to the same can be taken, particularly, in view of the fact that no such material has been produced by the Petitioners or from any other documents on record that any of the primary Health Centers or Satellite Hospitals have been closed down on account of non-extension of contract of service of the present Petitioners. If the State can manage to run these services with the help of existing staff or the persons appointed even on contract basis prior in point of time than the present Petitioners, the present Petitioners have no valid ground to assail the same.

11. In view of above, this Court finds no force in these writ petitions and the same are accordingly dismissed. No order as to costs.

However, Counsel for Petitioners jointly submit that Respondents have initiated fresh process for making appointments, which would show that the method adopted is with an object to replace the persons already in service and such action is wholly arbitrary and in violation of Article 14 of the Constitution. Counsel further jointly submit that interim stay orders were passed by this Court directing the Respondents to allow the Petitioner to continue on the posts held prior to the orders impugned - pursuant to which they continued to work and even if writ petitions are dismissed by this Court in view of judgment (supra), atleast they are entitled to get salary for the period during which they have worked under interim stay orders of this Court.

In light of the judgment (supra), the writ petitions along-with stay petitions, as per Schedule annexed, are accordingly dismissed. However, it is made clear that for the period during which Petitioners remained in service under interim stay orders passed by this Court, Respondents are under obligation to make payment of salary to respective Petitioners and if not paid so far, the same be paid to each of them within one month from the date of submission of certified copy of this order. No costs.

2. In one of matters, namely, Pawan Kumar Sharma and Anr. v. State of Rajasthan and Ors. Writ Petition No. 13905/2010, learned Counsel for Petitioners cited tender notice dated 14.10.2010 to argue that Respondents have issued a fresh notice inviting tender for appointment on the post of Pharmacist in Government Hospital, Dausa and therefore this matter has become distinguishable. I am not persuaded by this argument because in Chhagan Lal Sharma's case, supra, learned Counsel appearing for Petitioners jointly submitted before the coordinate bench that Respondents have initiated fresh process for making appointment which would show that that method has been

adopted by them with an object to replace persons already in service and such action is wholly arbitrary and violative of Article 14 of Constitution. Said argument was not upheld by the court. It was further argued that such of persons who have continued with Respondents under interim order passed by the court, should be held entitled to pay for the period during which they served Respondents under such interim orders, the court directed the Respondents to pay salary to respective Petitioners, if not paid so far, and further directed that if such salary is not paid so far, the same shall be paid to each of Petitioners within one month from the date of submission of copy of said order.

3. In my view, writ petition of Pawan Kumar Sharma and Another cannot be said to be distinguishable from other set of writ petitions because this argument was raised before coordinate bench and the same was considered and rejected. However, similar direction with regard to payment of salary to such of Petitioners who have worked with Respondents under interim order passed by the court, is reiterated and Respondents are directed that if their salary is not paid so far, the same would be paid to them within a period of one month from date a copy of this order is produced before them.

4. In light of aforesaid judgment, this writ petition and writ petitions shown in SCHEDULE annexed with this order, along-with their stay applications, are dismissed.

5. No order as to costs.