

(2018) 04 RAJ CK 0036
In the Rajasthan High Court
Case No : Civil Writs No. 4103 of 2018

Satvir Singh And Ors @APPELLANT@Hash State Of Raj And Ors

Date of Decision : 26-04-2018

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21, 23, 38

Citation : (2018) 04 RAJ CK 0036

Hon'ble Judges : VEERENDR SINGH SIRADHANA, J

Bench : Single Bench

Advocate : Dharmendra Jain

Final Decision : Disposed Off

Judgement

Though, the matter has been listed in the category of "orders" for non-deposit of process fee and notices.

Learned counsel for the petitioner submits that the controversy raised in the instant writ application is no more res-integra in view of adjudication by a

Division Bench in the case of Gopal Kumawat Vs. State of Rajasthan & Ors.: DBCW No.2963/2007, decided on 29th July, 2015, holding thus:

32. In the present case, no material has been placed before us, nor any plea has been taken in the reply that the probationers, during the period of

their probation, do not perform the same duties and responsibilities and are not required to carry out the same functions as confirmed employees.

33. We find the practice of payment of fixed remuneration without any allowances and benefit of increments to the probationers, who were appointed

after adopting the regular selection process, on substantive posts, or even after following the selection process on ad hoc basis, as well as all those

employees who are appointed on substantive posts, to be wholly illegal and arbitrary, and pernicious practice of forced labour.

34. We find no justification for the State Government, to adopt the practice of paying fixed remuneration to the probationers, which is not prevalent, either in the Central Government, or in any other States in the country. The Government of Rajasthan has adopted this evil practice of forced labour for its employees, taking advantage of the attraction of the Government service. The Notifications dated 13.03.2006, amending the Rules, are thus, declared to be unconstitutional, being violative of Article 14, 16, 21, 23 and 38 of the Constitution of India, and against the conscience of the Constitution of India.

35. The writ petition is allowed. The Notification dated 13. 03.2006, amending the Rajasthan Service Rules, 1951, and the Notification of the same date i.e. 13.03.2006, amending the Rajasthan Civil Services(Revised Pay Scale) Rules, 1998- Fixed remuneration to probationer trainees, are hereby quashed. The State respondents are directed to pay the entire differential amount of regular pay scale and allowances to the petitioner, after deducting the amount of fixed remuneration paid to him during the period of probation.

36. Now since by this judgment, we have declared the Notification dated 13.03.2006, amending the Rajasthan Service Rules, 1951, and the Notification of the same date i.e. 13.03.2006, amending the Rajasthan Civil Services(Revised Pay Scale) Rules, 1998- Fixed remuneration to probationer trainees, to be unconstitutional and consequently quashed the same, we direct that the State Government shall, pay to all its employees, appointed on regular or ad hoc basis under the statutory Rules on substantive posts, except the employees appointed on contract, daily rated or work charged employees, regular pay in time scale along with all allowances including Special Pay, Dearness Pay, Dearness Allowance, House Rent Allowance, City Compensatory Allowance, Non Practicing Allowance, Non-Clinical Allowance. Rural Allowance, Project Allowance, Mess Allowance, Washing Allowance or any other allowance, as are admissible to a confirmed employee in the same department. The payment of these allowances will not be dependent upon the period of probation, or successful completion of the period of probation. The probationer trainees will also be entitled to deductions towards General Provident Fund (GPF), State Insurance, and Travelling Allowance, as are admissible and payable to the regular employees. They shall also be entitled to annual grade increments for the

period of probation, after confirmation and Casual Leave, as in the case of other regular employees.â??

Having regard to the nature of controversy and prayer addressed; the matter is taken for up for final disposal at this stage.

In case, the claim of the petitioner is found to be covered by the adjudication referred to herein-above; the petitioner be also allowed the same benefits.

Needless to observe that the rights of the parties would be governed by the final adjudication on SLP pending before the Apex Court of the land wherein judgment in the case of Gopal Kumawat (supra), is under challenge.

In the result, the writ petition is disposed off, in the light of the judgment of the Division Bench of this Court dated 29th July, 2015, in the case of Gopal Kumwat (supra).

Accordingly, the petitioner is entitled to full salary for the period of probation; subject to adjudication on the SLP pending before the Apex Court of the land which would govern the rights of the parties.