
(2009) 01 RAJ CK 0120
In the Rajasthan High Court

Sohanveer Singh

APPELLANT

Vs

Rajasthan Civil Services Appellate Tribunal and Others

RESPONDENT

Date of Decision : 05-01-2009

Acts Referred:

Rajasthan Civil Services (Revised Pay Scale) Rules, 1998 — Rule 4

Citation : (2010) 1 RLW 178

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mohammad Rafiq, J.—The petitioner has challenged the judgment of the Rajasthan Civil Services Appellate Tribunal dated 30.7.2002 whereby his appeal claiming stepping up of pay in terms of Rule- 4 of the Rajasthan Civil Services (Revised Pay Scale) Rules, 1998 was dismissed.

2. Shri S.P. Sharma, learned Counsel for the petitioner has argued that the petitioner was initially appointed on the post of Male Nurse Gr. II in the year 1983 and accordingly joined on 1.9.1983. The date of his increment became due every year in September. He was granted pay scale No. 12 of 1400-2600 as per the Revised Pay Scale Rules, 1989 and was fixed at Rs. 1600/- as on 1.9.1991. The petitioner passed B.Sc. Nursing on 30.1.1992. As per Rule 13, the petitioner was granted benefit of two advanced grade increments of Rs. 50/-each in the pay scale of Rs. 1400-2600 and his basic pay was fixed at Rs. 1700 on 30.1.1992. Accordingly, on 1.9.1992, his pay was fixed at Rs. 1750/-. Since the petitioner completed nine years of service, he was granted selection grade and placed in the pay scale of Rs. 1600-2900 and accordingly his pay was revised from Rs. 1750/- to Rs. 1820/- as on 1.9.1992. Thereafter, his pay was revised under the Revised Pay Scale Rules of 1998 and his pay was fixed at Rs. 6,900/-. One Satish Chandra Sharma also joined on the post of Male Nurse Gr. II on 10.2.1984 and his date of increment was fixed on 10th February of each year. He was getting a sum of Rs. 1600/- on 10.2.1992 in the scale of Rs. 1400-2600. When he

completed nine years of service on 10.2.1993, his basic pay was revised from 1650/- to Rs. 1760/-. He thereafter passed the B.Sc. Nursing on 11.3.1993 and thus became entitled to receive two advance grade increments. However, while giving him benefit of two advance grade increments of Rs. 60/- each, he was fixed at Rs. 1880/- on 11.3.1993.

3. Learned Counsel for the petitioner has argued that Satish Chandra was junior to the petitioner having joined service at later point of time than him and he started getting the salary of Rs. 1880/- on 11.3.1993 whereas the salary of the petitioner was fixed at Rs.1880/- belatedly, six months thereafter on 1.9.1993. It happened because of the fact that date of increment of both of them fell on different dates and due to this fact, Satish Chandra Sharma in spite of being junior to the petitioner started getting higher scale than the petitioner. The Tribunal however rejected the claim of the petitioner on the ground that in view of Rule 14(2)(b)(iii) of the Revised Pay Scale Rules of 1998, Satish Chandra Sharma was drawing more pay than the petitioner due to grant of higher initial pay or advanced increment(s) Under Rule 13. It was argued that the aforesaid Rule has been misinterpreted by the Tribunal because Rule presupposes that the junior government servant draws pay more than his senior due to grant of higher initial pay or advance increment(s) in terms of Rule 13, whereas the senior was not getting advance grade. In the present case, the petitioner has also received the two advance increments before Shri Satish Chandra Sharma. Learned Counsel in support of his arguments relied on the judgment of Supreme Court in the case of Union of India (UOI) and Others Vs. P. Jagdish and Others, . It was therefore prayed that the judgment of the learned Tribunal be quashed and set aside.

4. Shri Hemant Gupta, learned Additional Government Counsel opposed the writ petition and submitted that the Tribunal has correctly interpreted Rule 14(3)(iii) which provides that where a junior servant begins to draw pay more than his senior due to grant of higher initial pay or advance increments, Under Rule 13 of these rules, Rule 14(1) of the Rules of 1989 with regard to stepping up of pay of senior at par with that of the junior would not be applicable.

5. Having heard the learned Counsel for the parties and perused the impugned order passed by the Tribunal as also the relevant documents, I find that this question is not in dispute that the petitioner is senior to Satish Chandra Sharma having been appointed earlier in point of time and also he passed the B.Sc. (Nursing) earlier than him. While the petitioner passed B.Sc. (Nursing) on 30.1.1992, Satish Chandra Sharma passed the B.Sc. (Nursing) on 11.3.1993, because of this factor, they both were granted two advanced grade increments in terms of Rule 13 on different dates. Since their date of incitements fell on different dates, they were granted such advanced grade increments with effect from such dates. Because of these circumstances, it so happened that while the petitioner was senior to Satish Chandra Sharma, but he was receiving lesser salary than him for six months. The Tribunal has dismissed the claim of the

petitioner merely on consideration of Rule 14(2)(b)(iii) that since Satish Chandra started drawing more pay than the petitioner due to grant of advance increments Under Rule 13, his case would fall in exceptional category. Rule 14(2)(b)(iii) shall have to be conjointly read along with Rule 14(1) and an harmonious interpretation shall have to be given to it because if what has been held by the Tribunal is accepted, it would mean that in spite of Satish Chandra and petitioner both receiving two advance increments, the pay anomaly persist just because the date of increments received by them happens to be different and obviously this happened because they passed the B.Sc. (Nursing) on two different dates, the petitioner being senior than Satish Chandra Sharma and he being junior to the petitioner. Even then the fact remains that Rule 14 would obviously apply to a situation like this which inter alia provides that where as a result of fixation of pay in the Revised Pay Scale Under Rule- 11 of these rules a junior Government servant whose existing pay in the existing pay scale was equal to or less than the existing pay of his senior begins to draw more pay than his senior, the pay of such senior Government servant shall be stepped up equal to that of his junior from the date the pay of the junior person becomes more than that of his senior, subject to the fulfillment of the four conditions enumerated therein. Condition No. (i) is that both junior and senior Government servants belong to the same cadre/ service or class of posts and serving in the same department and were drawing pay in the same time scale of pay before fixation of pay in the Revised Pay Scales, (ii) the anomaly is directly attributable to fixation of pay under these rules only, (iii) the authority competent to make substantive appointment on that post certifies that there is no dispute about the inter se seniority of senior/junior Government servants and lastly condition No. (iv) is that appointment / promotion of the junior Government servant is regular and in accordance with the provisions of relevant service rules. There can be no manner of doubt that in the present case all these four conditions are fulfilled apart from the fact that both the petitioner as well as Satish Chandra Sharma were receiving two advance grade increments in terms of Rule 13. The Tribunal was therefore not justified in reading Rule 14(2)(b)(iii) in isolation because both petitioner as well as Satish Chandra Sharma have been granted two advance grade increments and Satish Chandra Sharma alone was not in receipt of two advanced grade increments. Had it been so, the Tribunal would have been justified in stepping up the pay of the petitioner but in the present case both of them have received two advanced grade increments in terms of Rule 13 because of obtaining of degree of B.Sc. (Nursing) and this is due to force of circumstances that their date of increments are different and date on which they acquired the B.Sc. (Nursing) degree being different, this anomaly has arisen.

6. In view of the above discussion, the judgment of the Tribunal cannot be sustained.

7. The writ petition is accordingly allowed, The impugned Order dated 30.7.2002 is quashed and set aside. The appeal filed by the petitioner is allowed and the petitioner is held entitled to stepping up of pay with effect from 11.3.1993 at the

level of Rs. 1880/- and accordingly consequential benefits together with interest @ 6% per annum.

8. Compliance of the judgment be made within a period of three months from the date its copy is produced before the respondents.