
(2020) 02 RAJ CK 0285

In the Rajasthan High Court

Case No : Special Appeal Writ No. 1757, 1773 Of 2018, 99, 573 Of 2019

State Of Rajasthan And Ors

APPELLANT

Vs

Ram Gopal Jaga And Ors

RESPONDENT

Date of Decision : 14-02-2020

Acts Referred:

Constitution Of Indian, 1950 — Article 32, 226

Citation : (2020) 02 RAJ CK 0285

Hon'ble Judges : Sandeep Mehta, J;Vijay Bishnoi, J

Bench : Division Bench

Advocate : K.K. Bissa, Sukesh Bhati

Judgement

Vijay Bishnoi, J

All these special appeals are filed by State of Rajasthan being aggrieved with the judgment dated 14.08.2018 passed by the learned Single Judge in

S.B. Civil Writ Petition No.16256/2017 (Ram Gopal Jaga Vs. State of Rajasthan & Ors.) and eight connected matters, whereby the writ petitions

were allowed. The operative portion of the impugned judgment is reproduced hereunder:

â??20. Consequently, these writ petitions are allowed in terms of judgment of Neeraj Saxena (supra). The respondents are directed to consider case

of petitioners for appointment to the post of Primary School Teacher in pursuance of advertisements published in the year 1999 in pursuance of the

circular dated 10.6.1998. The petitioners case shall be treated at par with that of Neeraj Saxena for all purposes, however, the petitioners shall not be

given any actual pecuniary benefits for the period during which the petitioners had actually not worked and only notional benefits shall be considered

by the respondents. It is made clear that the petitioners who had approached this Hon'ble Court first time by filing writ petition before Neeraj

Saxena i.e. in the year 2006 shall only be given benefit of this judgment. Necessary consideration is required to be made within a period of three

months from today. No order as to costs.

The respondents, herein, were the respective petitioners in the four writ petitions decided by the impugned judgment.

Brief facts, necessary for adjudication of these special appeals, are that in the year 1998, Rural Development and Panchayati Raj Department,

Government of Rajasthan issued a circular dated 10.06.1998, prescribing the procedure to be followed for appointment to the vacant posts of

Teachers by way of direct recruitment. The Chief Executive Officers-Cum-Secretaries of Zila Parishads were directed to issue advertisement

pursuant to the above referred circular, which provided bonus marks for the domiciles of Rajasthan. Pursuant to the said circular, concerned Zila

Parishads issued advertisement in June 1998 itself, wherein provision for granting bonus marks to the domiciles of Rajasthan was incorporated. Some

of the candidates belonging to different districts or towns, who were not eligible for bonus marks filed writ petitions before this Court questioning the

validity of the circular dated 10.06.1998 prescribing the bonus marks to the domiciles of State of Rajasthan.

A Full Bench of this Court vide judgment dated 18.11.1999 in Kailash Chand Sharma Vs. State of Rajasthan [W.P.(C) No.3928/1998] decided on

18.11.1999, allowed these writ petitions holding the action of the State Government in providing bonus marks to the domiciles of Rajasthan to be

unconstitutional. The matter went up to the Hon'ble Supreme Court and the Hon'ble Supreme Court in Kailash Chand Sharma Vs. State of

Rajasthan & Ors. reported in (2002) 6 SCC 562 while upholding the decision of the Full Bench of this Court in Kailash Chand Sharma Vs. State of

Rajasthan gave following directions :-

46. Having due regard to the rival contentions adverted to above and keeping in view the factual scenario and the need to balance the competing

claims in the light of acceptance of prospective overruling in principle, we consider it just and proper to confine the relief only to the petitioners who

moved the High Court and to make appointments made on or after 18.11.1999

in any of the districts subject to the claims of the petitioners.

Accordingly, we direct:

1. The claims of the writ petitioners should be considered afresh in the light of this judgment vis a vis the candidates appointed on or after 18.11.99 or those in the select list who are yet to be appointed. On such consideration, if those writ petitioners are found to have superior merit in case the bonus marks of 10% and/or 5% are excluded, they should be offered appointments, if necessary, by displacing the candidates appointed on or after 18.11.1999.

2. The appointments made upto 17.11.1999 need not be reopened and reconsidered in the light of the law laid down in this judgment.

3. Writ Petition No. 542/2000 filed in this Court under Article 32 is hereby dismissed as it was filed nearly one year after the judgment of the High

Court and no explanation has been tendered for not approaching the High Court under Article 226 at an earlier point of time.â??

From the above directions of the Honâ??ble Supreme Court, it is clear that the candidates, who had approached the High Court after 18.11.1999 i.e.

the date on which the Full Bench of this Court passed the judgment in Kailash Chand Sharmaâ??s case seeking relief for appointment pursuant to

the advertisement issued by the various Zila Parishads in the year 1998 were declared as disentitled to get any relief.

However, the controversy did not rest there and several writ petitions were filed before this Court seeking appointments and conflicting orders were

passed by different Benches, whereby some of the writ petitioners were granted relief, whereas claims of some of the petitioners were rejected. In

one of such cases i.e. Neeraj Saxena Vs. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.6829/2006) decided on 23.01.2009 by Jaipur Bench

of this Court, learned Single Judge allowed the writ petition and directed the respondents to consider the petitioner for appointment to the post of

Primary School Teacher pursuant to the advertisement dated 13.06.1998 issued by the Zila Parishad, Chittorgarh. Later on, one aspirant again

approached the Honâ??ble Supreme Court and after hearing the parties at great length in the case of Manmohan Sharma Vs. State of Rajasthan &

Ors. reported in (2014) 5 SCC 782 Honâ??ble Supreme Court has reiterated that the candidates, who had approached the High Court on or before

17.11.1999, were the only ones entitled to get relief in terms of the judgment passed by it in Kailash Chand Sharma's case (supra). The relevant portion of the judgment passed in Manmohan Sharma's case (supra) is reproduced hereunder :-

¶11. We have heard learned Counsel for the parties at considerable length who were at pains to take us through the judgment of this Court in

Kailash Chand Sharma case over and over again. That was so because the entitlement of the appellants to any relief in these proceedings depends

entirely upon whether the same is permissible in terms of the directions issued by this Court in Kailash Chand Sharma case. As noticed earlier in

Kailash Chand Sharma case this Court invoked the doctrine of prospective overruling primarily for two reasons. Firstly, this Court observed that for

nearly one decade selections had been made by awarding bonus marks to residents of the districts concerned and the rural areas falling therein which

method was upheld by the High Court in several decisions. Till the time the selection process in the present case was initiated and completed these

decisions were holding the field. The correctness of those decisions was, however, doubted when writ petitions filed by Kailash Chand Sharma and

Ors. came up for hearing before a learned Single Judge with the result that the matters were referred to a larger Bench. By the time the judgment in

those writ petitions came to be delivered, the selection list of candidates had been published in many districts. The law was thus in a state of flux

which justified invocation of the doctrine of prospective overruling. This Court said:

¶42. ¶ In the present case, the legality of the selection process with the addition of bonus marks could not have been seriously doubted either by

the appointing authorities or by the candidates in view of the judicial precedents. A cloud was cast on the said decisions only after the selection

process was completed and the results were declared or about to be declared. It is, therefore, a fit case to apply the judgment of the Full Bench

rendered subsequent to the selection prospectively.¶

12. The second reason which this Court gave for invoking the doctrine of prospective overruling was that all those selected and appointed and selected

for appointment on the basis of the impugned selection process had not been impleaded as parties to the writ proceedings. This Court observed:

42. One more aspect which is to be taken into account is that in almost all the writ petitions the candidates appointed, not to speak of the candidates selected, were not made parties before the High Court. Maybe, the laborious and long-drawn exercise of serving notices on each and every party likely to be affected need not have been gone through. At least, a general notice by newspaper publication could have been sought for or in the alternative, at least a few of the last candidates selected/appointed could have been put on notice; but, that was not done in almost all the cases.

That is the added reason why the judgment treading a new path should not as far as possible result in detriment to the candidates already appointed.

We are not so much on the question whether the writ Petitioners were legally bound to implead all the candidates selected/appointed during the pendency of the petitions having regard to the fact that they were challenging the notification or the policy decision of general application; but, we are taking this fact into consideration to lean towards the view of the High Court that its judgment ought to be applied prospectively, even if the non-impleadment is not a fatal flaw.

13. This Court next examined the extent of prospectively that could be given to the declaration of law vis-à-vis the selection and appointment process under challenge. A threefold argument was noticed by this Court in that regard. Firstly, the Court noted the contention that those selected and/or appointed should remain unaffected of the law declared in Kailash Chand Sharma case for it would be more rational and logical to apply the judgment to future selections. The fortuitous circumstance of not being in a position to securing appointment orders for a variety of administrative reasons could not stand in the way of candidates already appointed or to be appointed after the date of the judgment. The rival contention urged on behalf of the Respondents that there was no legal or moral justification for making further appointments after 18-11-1999 when Kailash Chand Sharma case was decided was also noticed by this Court. Reference was also made to the decision of this Court in Madan Lal v. State of J & K and other cases relied upon by the selected candidates in support of the contention that writ-petitioners having taken a chance and participated in the selection process could not turn around and question the said process upon their failure to secure an appointment. It was in the backdrop of all these submissions that this

Court moulded the relief suitably and issued directions. This Court, it is evident, considered it just and proper to confine the relief only to such of the

candidates as were writ-petitioners before the High Court with a direction that appointments made on or after 18-11-1999 in any of the districts shall

remain subject to the claims of such appellants.

14. Para 46 of the judgment of this Court in Kailash Chand Sharma case which holds the key to several questions raised before us may, at this stage,

be extracted:

“46. Having due regard to the rival contentions adverted to above and keeping in view the factual scenario and the need to balance the competing

claims in the light of acceptance of prospective overruling in principle, we consider it just and proper to confine the relief only to the Petitioners who

moved the High Court and to make appointments made on or after 18-11-1999 in any of the districts subject to the claims of the petitioners.

Accordingly, we direct:

1. The claims of the writ petitioners should be considered afresh in the light of this judgment vis-à-vis the candidates appointed on or after 18-11-

1999 or those in the select list who are yet to be appointed. On such consideration, if those writ petitioners are found to have superior merit in case the

bonus marks of 10% and/or 5% are excluded, they should be offered appointments, if necessary, by displacing the candidates appointed on or after

18-11-1999.

2. The appointments made up to 17-11-1999 need not be reopened and reconsidered in the light of the law laid down in this judgment.

3. Writ Petition No. 542 of 2000 filed in this Court under Article 32 is hereby dismissed as it was filed nearly one year after the judgment of the High

Court and no explanation has been tendered for not approaching the High Court under Article 226 at an earlier point of time.”

A careful reading of the above leaves no manner of doubt that:

(a) this Court invoked the doctrine of prospective overruling which implies that the law declared by this Court would apply only to future selections and

appointments;

(b) that although prospective overruling left the appointments made before 18-11-1999 untouched, the writ-petitioners who had moved the High Court

had to be considered afresh vis-à-vis candidates appointed on or after 18-11-1999 or those in the select list without giving to such appointed/selected candidates the benefit of bonus marks under the circular; and

(c) that upon such consideration of the writ petitioners if they are found to be superior in merit than those appointed after 18-11-1999 they shall be offered appointments, if necessary, by removing the latter.

15. It was strenuously contended by learned Counsel for the appellants that the expression ""the appellants who moved the High Court"" appearing in

para 46 was wide enough and actually covered not only such of the writ-petitioners as had approached the High Court in the two batch of cases

decided by this Court in Kailash Chand Sharma case but also all such candidates as may have filed writ petitions at any time after 18-11-1999

including those who filed such petition after 30-7-2002 when this Court decided the appeals in Kailash Chand Sharma case and connected matters.

16. We find it difficult to accept that contention. There is nothing in the judgment of this Court in Kailash Chand Sharma case or the directions that

were issued in para 46 thereof to suggest that this Court was either conscious of or informed of pendency of any writ petition filed before the High

Court after 18-11-1999. There is also nothing to suggest that this Court intended the benefit granted in terms of Direction (1) under para 46 to extend

not only to the writ petitioners who had moved the High Court in Kailash Chand Sharma case and in the writ petition filed by Naval Kishore and

others but the same has intended to benefit all those who had or may have moved the High Court at any point of time. On the contrary there is

positive indication of the fact that the Court did not intend to extend the benefit to any Appellant who had challenged the award of bonus marks and

the selection process on the basis thereof at any stage after 18-11-1999. This is evident from the fact that Writ Petition No. 542 of 2000 filed in this

Court under Article 32 of the Constitution of India was dismissed by this Court in terms of Direction (3) under para 46 on the ground that the same

had been filed nearly one year after the judgment of the High Court. The expression ""as it has been filed after the judgment of the High Court

appearing in Direction (3) under Para 46 clearly suggest that for the grant of relief this Court had only petitions filed before the judgment in Kailash

Chand Sharma case in mind and not those filed after 18-11-1999 when the said

judgment was pronounced. The observation of this Court that the writ-petitioners had offered no explanation for not approaching the High Court under Article 226 of the Constitution at an earlier point of time too has two distinct facets, namely, (1) that the writ-petitioners in Writ Petition No. 542 of 2000 should have ordinarily approached the High Court and (2) They should have done so at an earlier point of time. The latter of these reasons again emphasized the importance this Court attached to the delay in the filing of the petitions in the matter of grant of relief for those who did not challenge the selection process in good time were not granted any relief.

17. Judged in the above backdrop the present appeals can be classified into two categories, namely, Category I comprising writ petitions that were

filed after 18-11-1999 and before 30-7-2002 as was the position in Writ Petition No. 542 of 2000 filed under Article 32 and dismissed by this Court and

Category II comprising writ petitions that were filed after 30-7-2002. While there is nothing that could be logically argued in regard to Category II

cases for extending the benefit of the judgment in Kailash Chand Sharma case to those cases, even in regard to Category I cases the judgment of this

Court holds no hope for the appellants. All that was contended by learned Counsel for the appellants in Category I cases was that writ petition in

Naval Kishore Sharma's batch was filed after the pronouncement of the Full Bench judgment of the High Court in Kailash Chand Sharma case. Grant

of benefit to appellants in Naval Kishore Sharma's batch of writ petitions and refusal of a similar treatment to the writ-petitioners who had similarly

filed their petitions no matter later in point of time would be unfair and inequitable. They contended that the relief given by this Court to Naval Kishore

Sharma and Others ought to be extended even to other similarly situated writ-petitioners by construing the directions of this Court in Kailash Chand

Sharma case liberally.

18. There is, in our opinion, no merit in that contention either. In Category I cases none of the writ petitions were filed earlier than the date on which

writ petition in Naval Kishore Sharma's case was filed. At any rate, the argument that some writ petitions had been filed around the same time when

Naval Kishore Sharma's case was decided may be no reason for us to enlarge the scope of the direction issued in Kailash Chand Sharma case which

is on true and proper construction limited to the writ-petitioners who had moved

the High Court in those cases. We need to remind ourselves that we are not hearing a review petition in Kailash Chand Sharma case nor can we modify the order passed in that case. What cannot be done directly by us, cannot also be done indirectly by placing what is described as a liberal interpretation by learned Counsel for the appellants.

19. Mr. Bali, learned Counsel appearing for some of the appellants in Category II strenuously argued that although the appellants in those cases were

not writ petitioners at any point of time before the pronouncement of the judgment of this Court in Kailash Chand Sharma case some of the appellants

could and were indeed appointed as teachers upon consideration of their inter se merit vis-à-vis candidates who had been appointed after 18-11-

1999. It was submitted that the right of such candidates to make a grievance against appointment of persons lower in merit with bonus marks awarded

to them was not and could not be taken away by the judgment of this Court in Kailash Chand Sharma case. This would imply that even independent of

the said judgment if the writ-petitioners were higher in merit than those appointed at any time after 18-11-1999, the appellants could make a grievance

and seek redress from the Government. Inasmuch as such appointments have been made in a few cases falling under Category II, the same could not

be faulted only because the writ petitions were filed after the judgment in the Kailash Chand Sharma case was pronounced.

20. On behalf of the Respondents Mr. Shiv Mangal Sharma, Additional Advocate General for the State of Rajasthan submitted that the appointment of

Category II cases was clearly illegal and impermissible in the light of the judgment of this Court in Kailash Chand Sharma case. The contention that

some of the appellants in Category II were better in merit even without deletion of bonus marks was wholly unsustainable and without any basis

whatsoever. No such case has been made out by the appellants in their respective writ petitions. An affidavit filed by the State has, in that regard,

clarified the position that candidates falling in Category II not yet appointed are lower in merit with bonus marks loaded to their merit than the last

candidate appointed under the open general category to which the appellants also belonged.

21. There is considerable merit in the contention urged by Mr. Sharma. The case sought to be argued at the Bar was never set up in the writ petitions

filed by the appellants before the High Court. It was not even remotely suggested that the appellants were appointed on account of their superior merit without deletion of the bonus marks. Indeed if anyone with lesser merit had been appointed writ-petitions challenging such appointment should have been filed quickly thereafter and not belatedly as was the position in the instant case. That apart, the affidavit filed by the Respondents satisfactorily refutes the contention urged at the Bar by Mr. Bali. The merit position without deletion of bonus marks did not justify the appointment of anyone falling under Category II as they were all lesser in merit than the last candidate appointed in the open general category. We have, therefore, no hesitation in rejecting the contention that the appointments of those falling under Category II were justifiable on any ground independent of the directions issued by this Court in Kailash Chand Sharma case. It is noteworthy that some of those appointed had even filed affidavits stating that they were parties before this Court which in fact was not the true position.â??

Recently, the Honâ??ble Supreme Court in the case of State of Rajasthan Vs. Nemi Chand Mahela & Ors. reported in 2019(2) WLC (SC) Civil 299

has again emphasised that the candidates who had not filed writ petitions on or before 17.11.1999 would not be entitled to appointment upon

recalculation of marks by exclusion of bonus marks from the marks of the selected candidates. In the above decision, the Honâ??ble Supreme Court

has also taken into consideration the judgment dated 23.01.2009 passed by the Jaipur Bench of this Court in Neeraj Saxenaâ??s case (supra) and

held that the decision in that case does not lay down any ratio in the form of precedent and also issued a direction that all the pending writ petitions and

appeals, before the High Court, would be disposed of and decided on the basis of decision in Kailash Chand Sharmaâ??s and Manmohan

Sharmaâ??s cases (supra). The relevant portion of the above judgment is quoted hereunder :-

â??12. Our attention was also drawn to the case of Neeraj Saxena in whose case the writ appeal filed by the State Government against the order of

the Single Judge was dismissed on the ground of delay and inaction. The Special Leave Petition against the decision of the Division Bench was also

dismissed on the ground of delay. This decision of the Division Bench in Neeraj Saxena and the dismissal of the Special Leave Petition on the ground

of delay does not lay down any ratio in the form of precedent. At best, the decision of the Single Judge in the case of Neeraj Saxena as in the case of

Danveer Singh would apply to the specific candidates in whose case the decision would operate as res judicata. This, however, would not be a ground

to negate and nullify the ratio and direction invoking doctrine of prospective overruling, applied in Kailash Chand Sharma's case (supra), which was

thereafter affirmed and elucidated by this Court in Manmohan Singh's case (supra).

13. In view of the aforesaid discussion, we hold that the candidates who had not filed writ petitions on or before November 17, 1999 would not be

entitled to appointment upon recalculation of marks by exclusion of bonus marks from the marks of the selected candidates. The aforesaid direction

would not apply to individual cases where the principle of res judicata would apply, i.e. wherein the decision of the Single Judge or the Division Bench

has become final since it was not challenged before the Division Bench or before this Court. All other pending writ petitions and appeals, before the

High Court, would be disposed of and decided on the basis of decisions in Kailash Chandra Sharma's, Manmohan Sharma's cases (supra) and the

present matter, subject to condonation of delay, when justified and satisfactorily explained??

(emphasis supplied)

It is noticed that the writ petitions filed by the respondents were allowed by the learned Single Judge in terms of the decision rendered in Neeraj

Saxena's case (supra), however, in the case of State of Rajasthan Vs. Nemi Chand Mahela & Ors. (supra) the Hon'ble Supreme Court has

categorically held that the decision passed in the case of Neeraj Saxena (supra) does not lay down any ratio in the form of precedent and only on this

ground the impugned judgment is liable to be set aside.

The private respondents in the special appeals were also not entitled to get any relief in the writ petitions filed by them as admittedly they did not

approach this Court on or before 17.11.1999 as they filed writ petitions in the year 2002 onwards whereas the Hon'ble Supreme Court in the

cases of Kailash Chand Sharma and Manmohan Sharma (supra) has categorically held that the candidates, who have approached the High Court

after 18.11.1999, are not entitled to get any relief in terms of Kailash Chand

Sharma's case (supra).

In view of the above discussions, we are of the view that the impugned judgment passed by the learned Single Judge is liable to be set aside and the

writ petitions filed by the private respondents are deserves to be dismissed.

Resultantly, these special appeal writs are allowed, the impugned judgment dated 14.08.2018 passed by learned Single Judge is set aside and the writ

petitions filed by the private respondents are dismissed.

Before parting, we would like to elaborate upon some glaring facts, which reflect that how a litigant can abuse the process of the Court by filing

successive writ petitions while concealing the adverse orders passed against him/her previously.

Respondent - Ram Gopal Jaga filed first writ petition being S.B. Civil Writ Petition No.9799/2002 (Ram Gopal Jaga Vs. State of Rajasthan & Ors.) in

the year 2002 at Jaipur Bench of this Court seeking relief that he may be provided appointment on the post of Teacher Grade III in terms of the

judgment passed by the Honâble Supreme Court in Kailash Chand Sharma's case (supra). The said writ petition was disposed of vide order

dated 21.12.2002 with a direction to Ram Gopal Jaga along with several other writ petitioners to submit a representation before the Director,

Panchayat Raj Department and the concerned authority was directed to decide the said representation within 30 days thereafter by providing

opportunity of hearing to the petitioners. The representations filed by Ram Gopal Jaga came to be dismissed by the State Government on 07.01.2004.

In the year 2009, again Ram Gopal Jaga filed another writ petition being S.B. Civil Writ Petition No.9034/2009 (Veer Singh Jatav & Ors. Vs. State of

Rajasthan & Ors.) before this Court and the said writ petition was disposed of by this Court vide order dated 04.05.2011 in terms of the judgment

rendered in S.B. Civil Writ Petition No.4555/2004 (Dattesh Mehta & Ors. Vs. State of Rajasthan & Ors.) decided on 20.01.2011.

Again in the year 2014, Ram Gopal Jaga filed S.B. Civil Writ Petition No.5115/2014 (Ram Gopal Jaga Vs. State of Rajasthan & Ors.) before this

Court, which was dismissed vide order dated 29.09.2014.

Again in the year 2015, Ram Gopal Jaga preferred S.B. Civil Writ Petition No.1780/2015 (Ram Gopal Jaga Vs. State of Rajasthan & Ors.) before this

Court, however, the same came to be dismissed in limine by this Court vide order

dated 25.02.2015 while passing the following order :-

“The prayer in the present petition is for a direction to the respondents to appoint the petitioner on the post of Primary Teacher in pursuance to the

advertisement dated 13.06.1998. It is not disputed that the petitioner had earlier filed S.B. Civil Writ Petition No. 9034/2009 titled as “Veer Singh

Jatav & Ors. Vs. State & Ors.”, which was disposed of by this Court vide order dated 04.05.2011 in terms of the judgment rendered in S.B. Civil

Writ Petition No. 4555/2004 (Dattesh Mehta & Ors. Vs. State of Raj. & Ors.), decided on 20.01.2011 directing the respondents to proceed against

the candidates against whom enquiry has been initiated by the department and thereafter, in case, any vacancy was still vacant, their cases be

considered accordingly. When nothing was done by the respondents, the petitioner again filed S.B. Civil Writ Petition No. 5115/2014 titled as

“Ramgopal Jaga Vs. State & Ors.” after a gap of almost three years, which further came to be dismissed by this Court vide Order dated

29.09.2014. The learned Single Judge did not deem it proper to interfere in the selection made in the year 1998 by observing as under :-

“In this writ petition, the petitioner is claiming appointment on the post of Teacher Grade-III against the vacancies advertised in the year 1998,

therefore, it is not proper to interfere in the selection made against the vacancies of the year 1998. Hence, this writ petition filed under Article 226 of

the Constitution of India is hereby dismissed.”

The Apex Court in the case of EX. Captain Harish Uppal Vs. Union of India & ors. reported in 1994 (Supp (2)SCC 195 upheld the decision of the

High Court dismissing the writ petition on the ground of delay and laches stating that the delay was equally applicable even if any subsequent order

passed by the Government in compliance of the Supreme Court's orders that the representation, if not already decided, should be disposed of at an

early date, as the same would not have the effect of curing the defect.

Even otherwise, the Apex Court in the case of Bhoop Singh Vs. Union of India & ors. reported in AIR 1992 SC1414 held that in case, where

termination of services was not challenged for a long period, the challenge could not be allowed merely because others whose services were similarly

terminated, had been reinstated. Now, the second writ petition has been filed once again for the same relief on the ground that S. B. Civil Writ Petition

No. 6829/2006 filed by similarly situated one Neeraj Saxena was allowed on 23.01.2009 and the appeal against the same was also dismissed on

29.04.2014 and that the said Neeraj Saxena has now joined on 10.09.2014 in pursuance to the appointment order dated 08.09.2014. It is evident from

the above that all the above facts were in existence at the time when the Writ Petition No. 5115/2014 filed by the petitioner was dismissed on

29.09.2014. The order dated 29.09.2014 passed by this Court has attained finality. The same has not been challenged by the petitioner. Thus, any

subsequent change in law ipso facto does not permit the reopening of the case, which otherwise stands settled inter-se the parties. In view of the

above, the writ petition is dismissed.â??

Strangely, Ram Gopal Jaga than again filed S.B. Civil Writ Petition No.5123/2015 (Ram Gopal Jaga Vs. State of Rajasthan & Ors.) before this Court

and it seems that on the first hearing it was prayed before the Court that the controversy involved in the writ petition is squarely covered by the

judgment dated 29.04.2014 passed by the Division Bench of this Court in State of Rajasthan & Ors. Vs. Neeraj Saxena (D.B. Civil Special Appeal

(Writ) No. 539/2013) and this Court vide order dated 18.05.2015 considering the prayer of counsel for Ram Gopal Jaga permitted him to submit a

representation to the appropriate authority in the light of the above referred judgment and it was observed that the concerned authority shall consider

and decide such representation as per law.

It is evident that while arguing in S.B. Civil Writ Petition No.5123/2015 (Ram Gopal Jaga Vs. State of Rajasthan & Ors.) decided on 18.05.2015,

learned counsel for Ram Gopal Jaga did not explicitly disclose this fact in the Court that earlier two writ petitions being S.B. Civil Writ Petition

Nos.5115/2014 and 1780/2015, claiming same relief in terms of Neeraj Saxena's case (supra), had been dismissed by this Court vide orders

dated 29.09.2014 and 25.02.2015 respectively.

Ram Gopal Jaga filed S.B. Civil Writ Petition No.16256/2017 (Ram Gopal Jaga Vs. State of Rajasthan & Ors.) before this Court in the year 2017

claiming that his representation was illegally rejected by the respondents, which was made in terms of the directions issued by this Court in S.B. Civil

Writ Petition No.5123/2015 (Ram Gopal Jaga Vs. State of Rajasthan & Ors.) decided on 18.05.2015.

It is indeed an unfortunate state of affairs that the same counsel had filed all the above mentioned writ petitions on behalf of Ram Gopal Jaga in the years 2009, 2014, 2015 and 2017 but he deliberately concealed these material facts and orders while arguing the cases before the Court. Such conduct of a counsel, having good years of practice, is condemnable and fit to be deprecated.

Taking into consideration the above facts and circumstances of the case, we deem it appropriate to impose cost of Rs.50,000/-upon respondent - Ram

Gopal Jaga. He shall deposit the same before the Rajasthan State Legal Services Authorities, Jodhpur within a period of one month. If the said cost is

not deposited by Ram Gopal Jaga, the Rajasthan State Legal Services Authorities, Jodhpur is directed to inform this Court immediately after expiry of the prescribed period of depositing the cost.

Ordered accordingly.

A copy of this order be sent to the Rajasthan State Legal Services Authorities, Jodhpur.