

(2014) 03 RAJ CK 0038

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) Nos. 382, 137, 263, 267, 343, 345, 380, 381, 392, 394, 432, 505, 507, 509, 1118, 1132 and 1186/2013

State of Rajasthan and Others

APPELLANT

Vs

Karan Singh and Others

RESPONDENT

Date of Decision : 25-03-2014

Acts Referred:

Citation : (2014) 03 RAJ CK 0038

Hon'ble Judges : Amitava Roy, C.J.;Vijay Bishnoi, J.

Bench : Division Bench

Advocate : P.S. Bhati, Additional Advocate General and Sajjan Singh, for the Appellant; B.P. Mathur, for the Respondent

Final Decision : Allowed

Judgement

Amitava Roy, C.J.?Heard Dr. P.S. Bhati, learned Additional Advocate General for the appellants and Mr. B.P. Mathur, learned counsel for the respondents.

2. The instant batch of appeals put to challenge the judgments and orders rendered in a cluster of writ petitions thereby allowing the same and directing the appellants-State-authorities to grant selection grades to the respondents-writ petitioners on completion of 9, 18 and 27 years of services to be reckoned from the date of their initial appointments in the pay scales of Rs. 975-1720, 1200-2050 and 1640-2900 respectively. By the decision impugned, a time frame of two months had been granted to comply therewith.

3. The facts involved vary marginally and that too on peripheral aspects and thus, having regard to the legal issues involved, dilation thereof in details petition-wise is considered inessential. Suffice it to say that the respondents-writ-petitioners had been initially appointed as Malaria Surveillance Worker/Vaccinator under the appellants-State. They claimed that their names were obtained from the employment exchange and after being interviewed by a selection committee, they were initially appointed on ad hoc basis and eventually confirmed. In the

year 1982, their post was re-designated as Multipurpose Health Worker. Their grievance is that though in terms of circular dated 25.1.1992 of the State Government, the benefits of selection grades to its employees as referred to therein on completion of 9, 18 and 27 years of services have been accorded in order to mitigate their hardship of suffering stagnation in their service career for want of adequate avenues of promotion, the competent authority had not granted them the pay scale as stipulated on their completion of 9, 18 and 27 years of services i.e. 975-1720, 1200-2050 and 1640-2900 respectively. According to them, though they were entitled to higher scale of pay on completion of 18 years, they have been sanctioned the pay scale of 975-1720 and consequently, the benefit of third selection grade pay scale on completion of 27 years of service as due to them has also been denied. They have impeached this action to be illegal and discriminatory as well contending that they have been unequally treated qua certain other incumbents of the Medical and Health Department of the State, who had been granted the requisite pay scales. They have thus claimed that they are entitled for the first, second and third selection grades in the pay scales of Rs. 975-1720, 1200-2050 and 1640-2900 on completion of 9, 18 and 27 years of services from the date (s) of their initial appointment(s).

4. The State-appellants and its functionaries (respondents in the writ petitions) while refuting the claim of the respondents-writ-petitioners have amongst others raised the plea of delay in staking the same. While distinguishing their cases with those who, according to them, are similarly placed, it has been stated that the respondents-writ-petitioners had been granted selection grades in the admissible pay scales on completion of required length of service as per the Rules as due to them. It has been averred as well that the respondents-writ-petitioners were not entitled to the pay scale of Rs. 1640-2900 on completion of 27 years of continuous service as claimed by them. They reiterated that the respondents-writ petitioners were entitled to selection grades as per the circular dated 25.1.1992 in the following terms:-

5. The learned Single Judge by the judgments and orders impugned placing reliance chiefly on the decision rendered on 28.1.2013 in S.B. Civil Writ Petition No. 1633/2013 Vijay Pal Dabi Vs. State of Rajasthan & Ors. and other connected matters as well as the order dated 11.10.2011 passed by a Coordinate Bench of this Court in D.B. Civil Special Appeal (W) No. 994/2011 State of Rajasthan & Ors. Vs. Chandra Shekhar and Ors., allowed the writ petitions with the direction to grant the respondents-writ-petitioners the selection grades on completion of 9, 18 and 27 years of services from the date of their initial appointments in the pay scales of Rs. 975-1720, 1200-2050 and 1640-2900 respectively.

6. Dr. Bhati has emphatically argued that as the initial appointments of the respondents-writ-petitioners had been on ad hoc basis and were confirmed subsequently, the period of ad hoc service in terms of the judgment of the Hon"ble Apex Court in State of Rajasthan and Others Vs. Jagdish Narain

Chaturvedi, is not includable to compute the period of 9, 18 and 27 years of services for grant of selection grades scales of pay enjoined by circular dated 25.1.1992 and thus, the impugned judgments and orders being opposed to the letter and spirit of the above decision, are liable to be interfered with. Distinguishing the contextual facts in Chandra Shekhar (supra), the learned Additional Advocate General has urged that though incumbents therein had already been granted the benefits of selection grades by reckoning their services from the initial dates of appointments, in the face of the decision taken by the State Government after the rendering in Jagdish Narain Chaturvedi (supra) not to review the cases where such benefits had already been granted in terms of its order dated 29.6.2009 and 20.8.2010, no parity in approach as claimed by the respondents-writ-petitioners herein is allowable as they had not been granted such benefits. Dr. Bhati to buttress his plea, placed reliance on the decision of the Hon''ble Supreme Court in Jagdish Narain Chaturvedi (supra).

7. Mr. Mathur while admitting that the initial appointments of the respondents-writ-petitioners had been on ad hoc basis, however, insisted that as the Special Leave Petition preferred by the State Government against the order dated 11.10.2011 rendered in D.B. Civil Special Appeal (W) No. 994/2011 State of Raj. a Ors. Vs. Chandra Shekhar & Ors. (supra) has since been dismissed by the Hon''ble Apex Court on 7.5.2013, the impugned judgments and orders do not merit any interference in the present appeals. That incidentally, the learned Single Judge had also in allowing the writ petitions placed reliance on the order dated 11.10.2011 of the Coordinate Bench of this Court in Chandra Shekhar (supra) was also referred to.

8. Upon hearing the learned counsel for the parties and on a consideration of the materials on record, we are of the view that the cases of the respondents-writ-petitioners herein are distinguishable from those in the above referred proceedings. Whereas the incumbents therein had already been granted the benefits of the selection grades scales of pay in terms of the circular dated 25.1.1992 on completion of 9, 18 and 27 years of services computed from the date(s) of their initial appointment(s), the respondents-writ-petitioners herein have not been granted the said benefits on the ground that ad hoc services are not countable for such claim.

9. The Hon''ble Apex Court in Jagdish Narain Chaturvedi (supra) on the same issue arising from the circular dated 25.1.1992 and noticing that the respondents-employees therein had been initially appointed on adhoc, daily wages and work charged basis held that till their services were not regularized, they were not borne on a cadre and therefore, their services rendered prior to regularization could not be counted for eligibility for stagnation benefits. It was clarified that though the word "regular" was not used in the circular dated 25.1.1992, the appointment contemplated was obviously regular in nature and made in accordance with the recruitment Rules. The clear exposition of law that was thus recorded in the above decision is that services rendered on adhoc, daily wages

and work charged basis cannot count to determine the eligibility for stagnation benefits comprehended and prescribed by the circular dated 25.1.1992.

10. Admittedly, after this decision was rendered, the State Government vide its orders dated 29.6.2009 and 20.8.2010 did take a decision not to review the cases where the benefit of selection grade had already been granted after counting the period spent on ad hoc officiation prior to 20.8.2010. As the order dated 11.10.2011 passed in D.B. Civil Special Appeal (W) No. 994/2011 in State of Rajasthan & Ors. Vs. Chandra Shekhar & Ors. (supra) would reveal, the appeal stood dismissed solely on this consideration. In our considered opinion, therefore, in the attendant facts and circumstances, reliance on this order does not advance the case of the respondents-writ-petitioners. Instead, their challenge is squarely answered by the enunciation made by the Hon''ble Apex Court in Jagdish Narain Chaturvedi (supra). They having been admittedly appointed on ad hoc basis initially to be confirmed later on, in view of the above decision of the Hon''ble Apex Court, their claim for first, second and third selection grades scales of pay in terms of the circular dated 25.1.1992 has to be essentially regulated thereby. We therefore find ourselves in respectful disagreement with the view taken in the impugned judgments and orders.

11. In the above view of the matter, we find substantial merit in the present appeals. The impugned judgments and orders are thus set aside. We make it clear that by the determination herein the aspect of entitlement to the selection grades scales of pay on completion of 9, 18 and 27 years of services on the basis of the legal proposition as propounded in Jagdish Narain Chaturvedi (supra) has only been made.

12. The appeals are allowed in the above terms. A copy of this judgment be placed in all the files.