
(2004) 04 RAJ CK 0027
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6201 of 1991

Subhash Mohan Mathur

APPELLANT

Vs

State and Another

RESPONDENT

Date of Decision : 13-04-2004

Acts Referred:

Citation : (2004) 4 RLW 2340 : (2004) 3 WLC 305

Hon'ble Judges : K.S. Rathore, J

Bench : Single Bench

Advocate : Abhishek Sharma, for the Appellant; P.C. Shah and B.S. Rajawat, for the Respondent

Final Decision : Allowed

Judgement

K.S. Rathore, J.—The petitioner being a graduate in Sociology applied for the post of Lecturer and was selected on the post of Lecturer on regular basis by the RPSC on 30.7.92 and was also confirmed with effect from 1.12.76. In the seniority list prepared by the respondent on 31.3.77, the petitioner's name find place at serial No. 87. Vide order dated 12.2.80, the petitioner was transferred on deputation to Rajasthan Police Academy from Raj Rishi College, Alwar. The deputation period was further extended for one year vide order dated 7.5.1981. Ultimately, on 17.11.1983, the petitioner was absorbed as Lecturer in sociology in Rajasthan Police Academy and presently working there.

2. The controversy in this writ petition is with regard to non fixing and not revising the pay scale of the petitioner and the respondents are also not applying the recommendation of the U.G.C. regarding revision of pay scale which was made applicable with effect from 1.9.1976 and in view of UGC recommendation, his pay scale was revised in the scale of 700-1600 from 23.3.1978 and till date he is drawing the same pay scale and further pay scale was not revised to the other similarly situated persons.

3. The petitioner also submits that in the same manner, Dr. VR Srivastava, Senior

Medical Officer was also absorbed in the Rajasthan Police Academy vide order dated 28.2.1989 and he is given benefit of revised pay scale as admitted to the other similarly situated doctors who are working in the medical department and he states that the petitioner should be treated in the same manner and he is entitled to the revision of pay scale.

4. Learned counsel for the respondents submits that the petitioner was absorbed in the RPA and this fact is not disputed. But, at the time of absorption (he petitioner did not opt that he wishes to draw the pay scale which are admissible to the Lecturers working in the government colleges and without putting any condition he accepted the absorption and continued with the RPA and since the petitioner now is not the employee of the education department, no relief can be granted for revision of the pay scale at the level of education department. It is also given out that since there is no rules governing the services of the Lecturers so absorbed in the RPA, therefore, pay scale of the petitioner are not revised.

5. Learned counsel for the respondents further submits that the case of Dr. V.R. Srivastava is distinguishable as he has given option at the lime of absorption with the condition that service conditions of the medical department shall be applicable in his case, therefore, the pay scale of Dr, V.R. Srivastava was revised.

6. Learned counsel for the petitioner in support of his submissions placed reliance on the judgment reported in S.I. Rooplal and Another Vs. Lt. Governor Through Chief Secretary, Delhi and Others,

7. Heard rival submissions of the respective parties. Upon perusal of the contents of the writ petition as well as the judgment referred before me, it is not disputed that the petitioner was continuing with the pay scale as revised with effect from 1.9.1976 and he was drawing the pay scale of 700-1600 till he retired after attaining superannuary age. During the pendency of the writ petition, on 30.9.2000, his pension is also fixed considering the last pay drawn. Therefore, I am fully convicted with the submissions made on behalf of the petitioner and as per the ratio decided by the Apex Court that at the time of absorption the petitioner have to be given the option which has admittedly not been given. I further having agreement with the submission made on behalf of the petitioner that at least in view of the recommendation made by the UGC regarding revision of the pay scale from time to time after completion of requisite service, the petitioner is entitled to get the selection scale, Senior selection scale etc. and that benefit was also not extended in favour of the petitioner.

8. Consequently, I allow this writ petition and direct the respondents to give the benefit of recommendation of the University Grant Commission made from time to Lime after 23.2.78 till the date of retirement of the petitioner and after undertaking such exercise calculate the amount and payment of difference of amount be made to the petitioner. The respondents are further directed lo revise the retiral benefits and prepare the revised Pension Payment Order (PPO) in accordance with the revision of the pay scale. The respondents are directed to

complete the aforesaid exercise within a period of three months.