

(2019) 01 RAJ CK 0117

In the Rajasthan High Court

Case No : Civil Writ No. 1456 Of 2016, 1645 Of 2017, 1037, 7126, 14282, 14284, 14288, 14292, 14298, 14304, 14335, 14337, 14339, 15124, 15137, 15153, 15156, 15160, 15203, 17880, 17882, 17949, 17983, 17987, 17989, 17990, 17991, 18062, 18075, 18078, 18082, 18086, 1809

Sunil Kumar Ojha And Ors

APPELLANT

Vs

Jai Narayan Vyas University Jodhpur And Ors

RESPONDENT

Date of Decision : 16-01-2019

Acts Referred:

Citation : (2019) 01 RAJ CK 0117

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Harish Purohit, Nikhil Dungawat, SKM Vyas, B.S. Sandhu, P.R. Singh, Deepika Purohit, Ashok Chhangani, Prakash Devasi, Mukesh Rajpurohit

Final Decision : Allowed

Judgement

It is submitted by learned counsel for the petitioners that the issues raised in the present writ petitions are squarely covered by judgment in Virendra Kumar Sharma v. Jai Narain Vyas University, Jodhpur & Anr.: S.B. Civil Writ Petition No.279/2017 & other connected matters, decided on 17.7.2018, wherein, similar petitions filed by the similarly situated candidates have been allowed by a Co-ordinate Bench of this Court.

In the case of Virendra Kumar Sharma (supra), this Court after referring to the judgments in Jitendra Kumar v. Jai Narain Vyas University, Jodhpur & Anr.: S.B. Civil Writ Petition No.8660/2011, decided on 13.12.2013, upheld in JNV University v. Jitendra Kumar : D.B. Civil Special Appeal No.354/2014, decided on 18.7.2014, against which, Special Leave Petition was dismissed by Hon'ble Supreme Court on 24.11.2014, Dr. Vikrant Sharma v. The Jai Narain Vyas University, Jodhpur: S.B. Civil Writ Petition No.375/2015, decided on 3.8.2016, upheld in The Jai Narain Vyas University, Jodhpur v. Dr. Vikrant Sharma : D.B.

Civil Special Appeal No.7/2017, decided on 21.2.2017 and Deepak Dave v. Jai Narain Vyas University, Jodhpur & Ors.: S.B. Civil Writ Petition No.13760/2015, decided on 13.12.2017 and after considering various objections raised by the respondents, has inter alia concluded and directed as under:-

"6. Counsel for the respondents have, however, failed to point out that how the judgment of Jitendra Kumar (supra) was distinguishable from the present case and also as to in what circumstances, the same relief has been given to Jitendra Kumar & others but not to the present petitioners. Counsel for the respondents have also not been able to refute that the judgment of this Court in the matter of Deepak Dave (supra) has been abided by the University and Mr. Deepak Dave has been regularised. Counsel for the respondents have also not been able to point out that why the distinction being drawn today, was not brought to the knowledge of this Court on the earlier occasion when the earlier judgments were being passed. Failure of the University to point out these facts on earlier occasions is also not justified by the counsel for the respondents. Furthermore, this Court finds that the Division Bench of this Court while deciding Jitendra Kumar's case (supra) had dealt with the fact that Jitendra Kumar was appointed through M/s. New Golliate Detectives, Jodhpur. There also, the University had advanced an argument that he was not entitled to regularisation in service of the University. Furthermore, this Court notes that the State was not a party in any of the aforesaid cases.

7. Resultantly, all these writ petitions are allowed in terms of Jitendra Kumar's case (supra) and the respondents are directed to regularize the services of the petitioners and pass appropriate suitable orders awarding them consequential benefits within a period of three months from today."

Further reliance has been placed on judgment of this Court in Sajjan Singh v. The Jai Narayan Vyas University, Jodhpur: S.B. Civil Writ Petition No.10752/2018, decided on 14.11.2018.

Learned counsel for the respondent - University submitted that in few matters, wherein, judgment in Jitendra Kumar (supra) has been followed, appeals are pending before the Division Bench, wherein directions issued by following the judgment in the case of Jitendra Kumar (supra), have been stayed. However, it is not denied that in several matters including the bunch in the case of Virendra Kumar Sharma (supra), appeals have not been filed so far.

In the overall fact situation, which has come on record indicates that on identical issues some orders passed by the Single Judge have been upheld by the Division Bench and even Special Leave Petition has been rejected by Hon'ble Supreme Court, the original judgment in the case of Jitendra Kumar (supra) has been followed in the case of Virendra Kumar Sharma (supra) and several other cases, wherein, appeals have so far not been filed and in some cases appeals have been filed and interim orders have been granted. There is apparently no reason to keep the present matters pending till disposal by the Division Bench, as prayed

by counsel for the University, as there is likelihood of certain persons, who have been granted relief by the Court, for lack of filing appeals getting the relief, whereas, the present petitioners would not be in a position to the said relief as granted to all other persons. Further, the fate of the petitioners cannot be tied to the matters pending before Division Bench, to which they are not a party.

If the University feels aggrieved by the present order, it can always challenge the same before the Division Bench, which would take appropriate view in all the matters together.

In view of the above, these writ petitions filed by the petitioners are also allowed with similar directions as given in the case of Virendra Kumar Sharma (supra), which reads as under:-

"7. Resultantly, all these writ petitions are allowed in terms of Jitendra Kumar's case (supra) and the respondents are directed to regularize the services of the petitioners and pass appropriate suitable orders awarding them consequential benefits within a period of three months from today."