

(2013) 11 RAJ CK 0061

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 314 of 2013

The State of Rajasthan and Another

APPELLANT

Vs

Vijay Kumar Damor and Others

RESPONDENT

Date of Decision : 18-11-2013

Acts Referred:

Citation : (2013) 11 RAJ CK 0061

Hon'ble Judges : Amitava Roy, C.J.;Pratap Krishna Lohra, J

Bench : Division Bench

Advocate : G.R. Punia, A.A.G, for the Appellant; M.R. Singhvi and Mr. Mohit Singhvi, for the Respondent

Final Decision : Allowed

Judgement

1. Heard Mr. G.R. Punia, learned Additional Advocate General for the appellants and Mr. M.R. Singhvi, learned Senior Advocate for the respondents. The facts relevant to be cited sans minimal variations are substantially identical and therefore, details thereof have been avoided for the sake of brevity. Suffice it to state that the respondents, who are members of the Rajasthan Sanskrit Education Subordinate Service and are governed by the Rajasthan Sanskrit Education Subordinate Service Rules, 1978 (for short, hereinafter referred to as "the Rules"), had been appointed as Teacher Gr. I/Senior Teacher on regular and substantive basis. Under the Rules, the next higher post is that of Lecturer and 50% thereof are to be filled-up by promotion from the post of Teacher Gr. I/Senior Teacher. Contending that on one hand the authorities concerned did not effect promotion to the post of Lecturer since 2003-04 and on the other resorted to the direct recruitment, they posted them (respondents herein) as Lecturer in the pay scale of their substantive post of Teacher Gr. I/Senior Teacher, they (respondents herein) approached this Court for a direction to promote them as Lecture and till then release the pay and allowances of that post. In other words, according to the respondents herein, though they were eligible to be considered for promotion to the post of Lecturer, no process was initiated in that regard and

instead they were made to serve in the said post on a pay of the lower rank i.e. Teacher Gr. I/Senior Teacher. Reliefs in S.B. Civil Writ Petitions No. 6547/2011 and 5116/2012 are designed on this factual backdrop.

2. In their reply, the appellants herein did not as such dispute the correctness of these facts and instead, pleaded that the process for promotion under the Rules to the post of Lecturer had meanwhile been initiated.

3. The learned Single Judge by the judgment and order impugned by noticing the pleaded stand of the appellants herein did not adjudicate the issue relating to promotion. However, having regard to the fact that the respondents herein had been indubitably posted as Lecturer and though they had been discharging the duties relatable to the said post, were paid the pay scale of the post of Teacher Gr. I/Senior Teacher for a decade, directed the appellants herein to fix their pay in the pay scale of the post of Lecturer from the date on and from which they had been posted therein. They were thereby required to complete the process of fixation within a period of three months. It was held as well that the respondents herein would be entitled to arrears of pay. In arriving at this conclusion, the learned Single Judge noticed that the derailment of the respondents herein in the higher post of Lecturer was not on intermittent basis and that they were discharging their duties relatable thereto thus entitling them to the benefit of the doctrine "equal pay for equal work".

4. Whereas Mr. Punia has urged that as admittedly, the respondents herein had not been promoted to the post of Lecturer on regular basis, they are not entitled to the pay scale ascribed there for and thus, the impugned judgment and order ought to be interfered with, Mr. Singhvi has urged that as they (respondents here) have been made to render their services in the said post on whole time basis and that too for a decade now, no interference in the present appeals is warranted.

5. Upon hearing the learned counsel for the parties and on a consideration of the materials on record, we do not feel persuaded to interfere. Noticeably, the learned Single Judge did not touch upon the aspect of regular promotion to the post of Lecturer. There is no wrangle at the Bar that the respondents herein, who had been appointed as Teacher Gr. I/Senior Teacher on substantive basis, had been made to serve in the higher post of Lecturer for about a decade as on date. No complaint whatsoever with regard to the quality of their service on the post of Lecturer has been made. The arrangement involving them vis-a-vis the post of Lecturer having regard to the duration of its continuance, cannot be said to be a stop-gap one. On a totality of the consideration of all these aspects, we are thus of the unhesitant opinion that the view taken by the learned Single Judge is unassailable. The appeals thus fail and are dismissed. The appellants, however, are granted three months time from today to comply with the directions contained in the impugned judgment and order and release the resultant entitlements to the respondents herein. A copy of this judgment be placed in both the files.