

(2022) 02 RAJ CK 0142

In the Rajasthan High Court

Case No : D.B. Civil Writ Petition No. 2648, 2793, 2836, 2861, 2877 Of 2022

Upendra Dhayal And Others

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 21-02-2022

Acts Referred:

Citation : (2022) 02 RAJ CK 0142

Hon'ble Judges : Akil Kureshi,CJ;Sudesh Bansal, J

Bench : Division Bench

Advocate : Vikash Kumar Jakhar, Vikash Kumar Kadwasara, Deepak Kumar Sharma, N.K. Tiwar, Vivek Gaur, Vishvash Saini, Manoj Singh Raghav, R.P. Singh, Rajesh Maharshi

Final Decision : Disposed Of

Judgement

In this group of petitions the challenge is to the notification dated 30.10.2017 issued by the State Government by which the Rajasthan Civil Services (Revised Pay) Rules 2008 came to be amended. Learned advocates for the parties agreed that the issues are covered by an order dated 25.11.2021 passed in CWP No.5920/2021 in the case of Santosh Sharma and Ors. Vs. State of Rajasthan and Ors. in which the Division Bench has provided as under:-

"In these petitions, the main controversy is with respect to validity and legality of the notification dated 30th October, 2017 issued by the Government of Rajasthan, Department of Finance. Under this notification, the Rajasthan Civil Services (Revised Pay) Rules, 2008 came to be amended.

It is not necessary to go into the details of these amendments. Suffice it to note that the grievance of the petitioners is that by virtue of these amendments in the revised Pay Rules, with retrospective effect, the grade pay in several cases have been so changed as to deprive the petitioners of actual benefits of Assured Career Progression Scheme. Since in some cases, the Government has also initiated recoveries on the basis of these amendments, the petitioners had also

prayed for interim protection. In some cases where recoveries have commenced, the Court has protected the petitioners. In some cases of the pensioners recoveries in part or full may have been made.

The learned Advocate General stated that such protection against non-petitioners has also been ordered in cases of those persons who are affected by these amendments.

Today, when this group of petitions was taken up for hearing, the learned Advocate General tendered an affidavit dated 25th November 2021 filed by one Shri Mangi Lal, Officer-in-Charge of the respondents, in which it is stated that the State Government is considering all the issues with respect to the notification and for such purpose a Committee has been constituted under order dated 05.08.2021. The scope of this Committee involves other issues but one of them being the question of grant of ACP benefits to the Government employees. It is stated that such Committee will take into account the issues arising out the amendments made by notification dated 30th October, 2017. According to the learned Advocate General, this will take about three months time. Till then, no further recoveries would be made on the basis of the said notification.

In our opinion, when the Government, on its own, is considering the multiple issues arising out of the said notification, it would not be proper on our part to examine the legality and validity of the notification. We would therefore dispose of these petitions with certain directions. Before issuing final directions, we may notice that in some of the cases of the pensioners, part or full recoveries have already been made. These recoveries may not be retained by the State till fresh decision is taken, of course, subject to outcome of the decision of the Government and further order of the Court in case the controversy raises.

Under the circumstances, all these petitions are disposed of with the following directions:-

- (i) Let the Government reconsider the entire issue as is stated before us. Final decision preferably may be taken by 28th February, 2022.
- (ii) After the decision is taken by the Government, if any of the grievances of the petitioners survive, it would be open for them to file fresh petitions.
- (iii) Till fresh decision is taken, the State Government shall not make any further recovery on the basis of the notification dated 30th October, 2017.
- (iv) Recoveries already made from the pensioners would be refunded, subject to final decision of the Government, subject to further challenge.

We are informed that in some of the petitions additional issues have also been raised. None of these issues would get affected by this order. It would be open for the petitioners to file an independent petition, as may be advised subject to all objections of the Government which are kept open.

All pending applications are also disposed of."

Issues being identical the directions contained in the said order dated 25.11.2021 in case of Santosh Sharma (supra) will apply in all these cases.

The petitions stand disposed of accordingly.