

Omp Rakash Deora and ors Vs. State (Education) and ors

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Court : Rajasthan Jodhpur

Decided On : Apr-02-2014

Appellant : Omp Rakash Deora and ors

Respondent : State (Education) and ors

Judgement :

S.B.Civil Writ Petition No.4015/2011 Om Prakash Deora & ORS.versus State of Rajasthan & ORS.Order dt: 02/04/2014 1/4 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.Civil Writ Petition No.4015/2011 Om Prakash Deora & ORS.versus State of Rajasthan & ORS.DATE OF

ORDER

::: 02nd April 2014 PRESENT HON'BLE Dr.

JUSTICE VINEET KOTHARI Appearance: Dr.

Nupur Bhati, for the petitioners.Mr.B.L.Bhati, Govt.

Counsel.

-- BY THE COURT: 1.

Both the learned counsel for the parties submit that the controversy involved in the present writ petition is covered by the decision of this Court in the case of Bhanwar Lal Soni versus State of Rajasthan & ORS.(SBCWP No.3375/2011 decided on 08.02.2012).1.

The petitioners have filed the present writ petition with the following prayers.- It is, therefore, most humbly and respectfully prayed that this writ petition may kindly be allowed; and by an appropriate writ, order or direction A/ By an appropriate writ order or direction, the impugned order dated 2/2/2011 and any recovery order in pursuance of order dated 2/2/2011 may kindly be quashed and set aside.

S.B.Civil Writ Petition No.4015/2011 Om Prakash Deora & ORS.versus State of Rajasthan & ORS.Order dt: 02/04/2014 2/4 B/ By an appropriate writ, order or direction, the any recovery made in pursuance of the order dated 2/2/2011 may kindly be declared illegal & unconstitutional.

C/ By an appropriate writ, order or direction, the respondents may kindly be restrained from implementing the notification dated 7/8/1998 retrospectively.

D/ By an appropriate writ, order or direction, the grade pay of Rs.4800 of third ACP may kindly be maintained as they were paid earlier.

E/ By an appropriate writ, order or direction, any amount recovered in pursuance of order dated 2/2/2011 with interest of 18% p.a.may kindly be paid to the petitioners.F/ By an appropriate writ, order or direction, the respondents may kindly be directed to pay the arrear from the date, the pay grade of Rs.4800 of third ACP has been implemented.

G/ Any other appropriate writ, order or direction which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioners.H/ Writ petition filed by the petitioners may kindly be allowed with costs.

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The coordinate bench of this Court in the case of Bhanwar Lal Soni (supra) has held as under: - In the light of aforesaid discussion, there is no illegality in the circular/order dated 2.2.2011 but S.B.Civil Writ Petition No.4015/2011 Om Prakash Deora & ORS.versus State of Rajasthan & ORS.Order dt: 02/04/2014 3/4 default lies in regard to its implementation.

The order dated 2.2.2011 is not applicable to erstwhile Teacher Gr.

III drawn selection grade of Rs.6500-10500 and promoted to the post of Senior Teacher on or before 1.7.1989 and Teachers Gr III, who have been given promotion to the post of Senior Teacher on or before 1.7.1998 and have completed 10 years of service who become entitled for the pay scale of Rs.6500-10500 and thereafter entitled to the benefit of third ACP having not given benefit of three financial up-gradation earlier and if benefit of third financial up-gradation was given then they were fixed in the pay scale of Rs.7500-12000.

The other TeacheRs.who were initially appointed as Teacher Gr.

III and were not given benefits mentioned in para above, would be governed by the circular dated 2.2.2011.

The respondents are directed to undertake necessary exercise in view of the clarification and directions given above.

However, respondents are restrained to recover the amount paid to the petitioners even if it is found in excess to their entitlement as payment was not made to the petitioners on account of their misrepresentation or fraud but was at the instance of respondents themselves.

Accordingly, the respondents are directed to carry out the directions and it goes without saying that while applying the revised Rules of 2008, Rule 6 (2) would also be taken note of.

With the aforesaid, all the writ petitions so as the stay applications are disposed of.

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S.B.Civil Writ Petition No.4015/2011 Om Prakash Deora & ORS.versus State of Rajasthan & ORS.Order dt: 02/04/2014 4/4 3.

The present writ petition is, accordingly, disposed of in the same terms. The certified copy of this order be issued upon payment of court fees @ Rs.25/- for each of the petitioners as they have separate cause of action for each one of them, even though point involved is common and, therefore, filing of joint writ petition could be permitted but payment of minimum court fees @ Rs.25/- by each of one of them was necessary.

(Dr.

VINEET KOTHARI).J.

DJ/- 57

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