**SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com**

**Smt. Parvati Devi and anr. Vs. State of Rajasthan and ors.**

**Smt. Parvati Devi and anr. Vs. State of Rajasthan and ors.**

**SooperKanoon Citation** : sooperkanoon.com/753322

**Court** : Rajasthan

**Decided On :** May-04-2000

**Reported in** : 2001(1)WLN654

**Judge** : Shiv Kumar Sharma, J.

**Acts** : Constitution of India - Article 226

**Appeal No.** : S.B. Civil Writ Petition No. 676 of 1997

**Appellant** : Smt. Parvati Devi and anr.

**Respondent** : State of Rajasthan and ors.

**Advocate for Def.** : Nathu Lal Pareek, Adv.

**Advocate for Pet/Ap.** : Maneesh Bhandari, Adv.

**Judgement** :
ORDER

**Sharma, J.**

1. Petitioners are legal representatives of one Bhagwan Singh, who was working on the post of Patwari before his death on October 13, 1995. Grievance of the petitioners is that the deceased employee had completed more than 27 years of service prior to his death but benefit of selection scale in view of 'circular 1992'

after completion of 9, 18 and 27 years of service was not given to him. The representations submitted by the deceased employee against communication of some adverse entries were not finalised in his life time. Deceased employee had completed 9 years and 18 years of service in 1977 and 1986, till then he was not communicated any adverse entry. He was informed about the adverse entries relating to the years 1983-84 and 1985-86 for the first time in 1990 against which he submitted representations within the prescribed period and thereafter he was never intimated about the decision taken. The petitioners claimed selection scale on completion of 9 and 18 years of service by the deceased employee by serving notice for demand of justice bill the respondents turned down their request on the ground that the deceased employee was punished twice with the punishment of stoppage of two grade increments without cumulative effect vide orders dated October 24, 1990 and May 7, 1991 and was also communicated adverse entries for the years 1983-84, 1985-86, 1986-87 and 1989-90.

(2). The respondents submitted reply to the writ petition stating therein that deceased Bhagwan Singh was appointed as Patwari vide order dated 12.9.68 and he died while he was in service on October 13, 1995 as such he completed 27 years of service but his service record was not satisfactory as provided under the notification dated January 25, 1992 and hence he was not entitled to gel relief as provided under Notification dated January 25, 1992. It has further been averred that adverse entries for the year 1983-84 were communicated on May 3, 1990, and adverse entries for year 1985-86 were communicated vide notice dated May 3,1990. Deceased Bhagwan Singh submitted representations and same were rejected and the entries remained intact. Adverse entries for the year 1989-90 were also communicated to deceased Bhagwan Singh and he submitted representation against the same and the representation was also rejected and thus his service record was not satisfactory and hence he was not entitled to be given benefit of Notification dated January 25, 1992.

(3). The petitioners also submitted rejoinder to the reply to the writ petition reiterating the facts stated in the writ petition.

(4). I have reflected over the rival submissions and carefully scanned the material on record.

(5). Indisputably, the deceased employee had completed 9 years of service in 1977 and there was nothing adverse against him till then. Clause 7 of the Circular dated January 25, 1992 provides that Selection Grade shall be granted only to those whose record of service is satisfactory. The Division Bench of this Court in State of Rajasthan vs. Kuldeep Singh Chauhan (1) has occasion to consider aforequoted circular and it was observed thus: (Para 8)

'A conjoint reading of all paragraphs of the circular makes it clear without any doubt that an employee who completes 9 years of service from the date of his first-appointment in the existing cadre becomes entitled to get first Selection Grade, provided his service record is satisfactory. Thus, he becomes eligible to get first Selection Grade on completion of 9 years service, as such, his service record to judge his suitability for granting first Selection Grade could be of that period and not that of later period.'

(6). The suitability to grant Selection Grade after completion of 18 and 27 years has also to be judged on the basis of APARs. of the preceding years. In the instant case the respondents have categorically averred in their reply that adverse entries for the years 1983-84, 1985-86 and 1989-90 were communicated to the deceased employee and his representations were rejected and he was punished twice with the punishment of stoppage of two grade increments in the year 1990 and 1991. In view of this I hold that preceding service record of the deceased employee after completion of 18 years (in 1986) and 27 years (in 1995) was not satisfactory and he was not entitled to Second and Third Selection Grade.

(7). There is no substance in the contention of the respondents that the circular dated January 25, 1992 cannot be implemented retrospectively. The fallacy in the contention is apparent. The Circular makes it clear in clause 3 that service of 9, 18 and 27 years, as the case may be, shall be counted from the date of first appointment in the existing service cadre in accordance with provisions contained in the Recruitment Rules.

(8). In view of what I have discussed hereinabove, I hold that the deceased employee Bhagwan Singh was entitled to first Selection Grade after completion of 9 years service in 1977. The respondents are directed to calculate the arrears with all consequential benefits and pay the same to the petitioners as expeditiously as possible-preferably within two months from the date of receipt of this order. The claim of the petitioners in respect of second and third selection grade stands rejected. The writ petition is accordingly allowed in part without any order as to costs.

**SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com**