

Sayari Devi Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Mar-21-1995

Reported in : (1996)IIILLJ1181Raj; 1996WLC(Raj)UC263; 1995(1)WLN508

Judge : R.R. Yadav, J.

Acts : [Constitution of India](#) - Article 226; Rajasthan Service Rules, 1951 - Rule 179

Appeal No. : S.B.C.W.P. No. 953/1992

Appellant : Sayari Devi

Respondent : State of Rajasthan

Advocate for Def. : S.K. Vyas, Adv.; M.S. Singhvi, Adv.

Advocate for Pet/Ap. : Mahendra Trivedi, Adv.

Disposition : Petition allowed

Judgement :

ORDER

R.R. Yadav, J.

1. This is a writ petition through post by a poor starving petitioner Smt. Sayari Devi widow of late Shri Mangi Lal. r/o Village - Bhadwasi, Post Jayal, District Nagaur for

issuing a mandamus for payment of General Provident Fund, State Insurance amounts and Family Pension on the ground, inter alia, that her deceased husband late Shri Mangi Lal was serving in the office of Public Works Department, City sub-division-I, Jodhpur. The petitioner's deceased-husband had worked as chowkidar at Dak Bungalow (B & R), City Sub-Division-I, Jodhpur up to May 1962 and expired on October 19, 1963.

The petitioner disclosed here deceased-husband's GPF Account No. C. 1 / 2072 in her application.

2. Learned Single Judge of this Court on February 18, 1992 issued notice to show cause to the respondents as to why the petition should not be admitted and allowed.

3. Learned Additional Government Advocate accepted notices on behalf of the answering respondents on February 18, 1992 and reply to notice to show cause was filed admitting that the petitioner's deceased husband did serve the office of Public Works Department, City Sub-Division-I, Jodhpur upto May, 1962, and thereafter he went on long leave and expired on October 19, 1963, It is also stated in reply to show cause that after death of the petitioner's husband, the amount of Rs. 94/- was withdrawn from the Treasury by the Assistant Engineer. Incharge of Dak Bungalow, PWD, Jodhpur, The petitioner was informed so many times by letters but she did not turn up to receive the amount. Ultimately, a Money Order was sent to her bearing receipt No. 6235 dated August 31, 1964 after deducting Rs.1.50 as expenses incurred for sending the Money Order and the same was recorded in the Cash Book vide Voucher No. 133 dated August 31, 1964. It is nowhere stated in the reply as to whether the said Money Order sent to the petitioner was received by her or not. In support of the aforesaid Money Order sent to the petitioner, no documents have been filed. It is also stated in the reply to show cause notice that the petitioner has filed the instant writ petition after a lapse of 28 years, which is highly belated and as such is liable to be dismissed on the ground of laches.

4. It is further stated in the reply to show cause notice by the answering-respondents that the amount of State Insurance was not deducted from the salary

of the petitioner's deceased husband, hence, no amount of insurance is due. As regard the payment of Family Pension, it is averred in the reply that there was no provision for payment of pension to the work charged employees, therefore the petitioner is not entitled to the payment of family pension. It is also stated that it is true that in the year 1975. The Pension Rules were amended and pension was made payable to those employees, who are appointed on regular posts amongst work-charged employees. According to the answering-respondents this Pension Amendment Rules cannot be extended with retrospective effect and as such, the petitioner is not entitled to any Family Pension against the services rendered by her deceased husband to the respondent-department.

5. After persual of the reply filed on behalf of the answering-respondent, the present writ petition was admitted on January 19, 1993. Mrs. Chandra Lekha, learned Deputy Government Advocate accepted notices on behalf of the respondents and she prayed for four weeks' time to file reply to the writ petition. Time prayed for was allowed with a direction that if reply is not filed within the aforesaid period, then the writ petition will be finally disposed off even without reply. Irrespective of the aforesaid direction of this Court dated January 19, 1993, no reply was filed after admission.

5A. As a matter of fact, reply to show cause notice is based on the report submitted by the Executive Engineer dated July 24, 1991 to the Secretary, Rajasthan Legal Aid Committee. Rajasthan High Court, Jaipur. It is important to mention that in report dated July 24, 1991, the Executive Engineer, City Sub-Division, PWD, Jodhpur had made it clear that the service record and other record of the petitioner's deceased-husband Shri Mangi Lal was not traceable in the office, therefore, two months further time was sought to submit a complete report. The aforesaid report dated July 24, 1991, is on record of the paper-book at page 5.

5B. Keeping in view, the contents of the aforesaid report dated July 24, 1991 and averments made in reply to show cause notice based on the contents of the said report submitted by the Executive Engineer, City Sub-Division-I, Public Works Department, Jodhpur this Court passed a detailed order on January 10, 1995

directing the answering-respondents to produce the service record of deceased Mangi Lal on July 27, 1995. On the same day, Mr. M.S. Singhvi, Advocate was appointed by this Court as Amicus i Curiae.

6. On January 27, 1995, learned counsel appearing on behalf of the answering-respondents was asked to produce the service record of deceased Shri Mangi Lal, upon which, learned counsel expressed his inability to produce the same on the ground that although deceased Mangi Lal was a Semi-permanent employee of Public Works Department and was entitled to be given a status of regular permanent employee under the work-charge rules applicable to him after expiry of 10 years, yet his service record is not traceable. It is not disputed before me that the department was under obligation to preserve the service record of deceased Mangi Lal. This was the exact reason that the Executive Engineer, City Sub-Division, PWD, Jodhpur vide his letter dated July 24, 1991 requested to the Secretary, Legal Aid Committee, Rajasthan High Court, Jaipur seeking further two month's time to submit further report after looking into the service record of deceased Mangi Lal. It was made clear in the aforesaid letter dated July 24, 1991 that search of service record of deceased Mangi Lal is continuing. But even after expiry of 3 1/2 years, the service record of deceased Mangi Lal could not be traced. In such a situation, there is no alternative but to draw an adverse inference against the answering respondents that if the service record of the petitioner's deceased husband Shri Mangi Lal would have been produced before the Court, it would have gone against the interest of the answering-respondents, who are opposing the payment of Family Pension. The aforesaid adverse inference against the answering respondents is further strengthened from the representation given to the department by the petitioner's husband along with other six Class IV employees of Dak Bungalow, Jodhpur dated December 2, 1958. The aforesaid representation was given by Cook, Waiter, Room Boy, Sweeper, Waterman and petitioner's husband, who was working as Chowkidar at Dak Bungalow, Jodhpur complaining that each of them had to work full week without any holiday as enjoyed by other Class IV Employees of the Government of Rajasthan. The main grievance of Class IV employees in the said representation was that each of them had to work for 14 hours a day and that too without a regular weekly holiday. It is a matter of common knowledge that such demands are ordinarily made by Class IV

Employees whose services have attained status of semipermanent or permanent status. The aforesaid representation made by the petitioner's deceased-husband along with other six Class IV employees of the DAK Bungalow, is also on record.

7. There is yet another strong reason which further strengthened the adverse inference against the answering-respondents. A close scrutiny of the reply filed by the answering-respondents to show cause notice leads towards an irresistible conclusion that it is admitted that the petitioner's deceased-husband was a Semi-permanent employee of the Public Works Department, Jodhpur but it is not disclosed on which date his services attained the status of semipermanent in order to calculate as to whether after attaining the status of semi-permanent, the petitioner's deceased-husband was entitled to be declared as a regular permanent employee of the department after expiry of 10 years under the work-charge rules applicable to him.

8. Mr. M.S. Singhvi, learned counsel for the petitioner urged before me that since in the instant case, the petitioner's deceased-husband worked more than 10 years against the substantive post of chowkidar, therefore, his service record is being deliberately withheld and not being produced before this Court on spacious plea that it is not traceable in the office. Learned counsel appearing on behalf of the petitioner has invited my attention to a decision rendered by the learned Single Judge of this Court in the case of *Sujan Singh v. State of Rajasthan*, (S.B. Civil Writ Petition No. 1258 / 80, decided on April 4, 1991) reported in, 1991 WLR(s)Raj 340, wherein it is ruled that if any work-charged employee had put in 10 years service then he shall be deemed to be permanent employee and will be entitled to all benefits admissible to him under the Rajasthan Service Rules, 1951. I respectfully agree with the aforesaid proposition of law rendered by the learned Single Judge in *Sujan Singh's* case (supra), and hold that on the date of death, the petitioner's deceased-husband was a permanent regular employee of the department and as such, was entitled to all retiral benefits including pension and like wise the petitioner is entitled to family pension. The legitimate claim of the petitioner for payment of family pension after death of her husband Shri Mangi Lal, cannot be allowed to be hoodwinked by the answering-respondents on the spacious plea to the effect that the service record and other records of the

petitioner's deceased-husband is not traceable in the department.

9. The aforesaid view taken by learned Single Judge of this Court in Sujan Singh's case (supra), is fortified from the mandatory provisions contained under the Rajasthan PWD (B&R;) (including Gardens, Irrigation, Water Works and Ayurvedic Departments) Work-charged employees Service Rules, 1964 (hereinafter referred to as 'the Rules of 1964'). Rule 3 of the aforesaid rules provided the categories of service i.e. (i) permanent status, (ii) Semipermanent status and, (iii) Casual status, Sub-rule (2) of Rule 3 of the Rules of 1964, provides that the employees who have been in service for 10 years or more shall be eligible for the status of permanent workcharge employees provided their record of service, in the opinion of the competent authority, is satisfactory.

10. From the aforesaid discussion, it is easily deducible that the petitioner's deceased-husband had worked more than 10 years and he was eligible to be given status of permanent employee after expiry of the period of 10 years provided his service record, in the opinion of the competent authority, was found to be satisfactory. In the instant case, in absence of service record of the petitioner's deceased-husband, it cannot be said as to whether 10 year's service record of the petitioner's deceased-husband was found to be satisfactory in the opinion of the competent authority. It is true that the answering-respondents have not taken a plea in reply to show cause notice that the service record of the petitioner's deceased-husband was not satisfactory in the opinion of the competent authority, therefore, there is no option but to treat the petitioner's deceased-husband as permanent employee and once he is treated as permanent employee of Government of Rajasthan, then, automatically he will be entitled to all the pensionary benefits and after his death, the petitioner Smt. Sayari Devi will be entitled to the family pension.

11. In Sujan Singh's case (supra), the same view has been taken by the learned Single Judge of this Court and I have no reason to differ with him as stated earlier. I am in respectful agreement with the view taken by the learned Single Judge in Sujan Singh's case (supra), hence, it is declared that the petitioner's deceased-husband had put in more than 10 years service and as such, he shall be deemed

to be permanent employee and entitled to all pensionary benefits and likewise his widow will be entitled to the family pension.

12. There is yet another reason to hold : that the present petitioner is entitled to family pension as contemplated under Rule 179 of the Rajasthan Service Rules, 1951, (hereinafter referred to as 'the RSR'). For proper appreciation, Rules 179 of the RSR is reproduced below:--

'179. Conditions of Qualification:--The service of an officer does not qualify for pension unless it conforms to the following conditions:--

First:--The service must be under Government.

Second:--The employment may be substantive/ permanent, temporary or officiating.

Third :-- The service may be paid by the Government.'

13. According to Rule 179 of the RSR quoted above, the service of an officer or employee does not qualify for pension unless it conforms the following conditions:--

(i) The service must be under Government and in the instant case, it is not in dispute that the petitioner's deceased-husband was serving under the Government of Rajasthan.

(ii) The employment may be in substantive / permanent, temporary or officiating capacity. It is true that this rule does not provide about the work charge employees but immediately after expiry of 10 years, if a work-charged employee is declared as a permanent employee under the Rules of 1964, the present condition will be immediately attracted. In the present case, it has already been held that the petitioner's deceased-husband had completed more than 10 years service, thereafter, this condition will also be deemed to be fulfilled in the instant case.

(iii) The service may be paid by the Government The third condition stipulated under Rule 179 of the RSR is also not in dispute before me.

14. In my considered opinion, if under Rule 179 of the RSR the pensionary benefits are extended to temporary Government Employees of the State of Rajasthan then likewise the Semi-permanent employees are also entitled for pension provided such Semi-permanent employees are not appointed against an ad hoc post in a temporary time bound project of scheme. As a matter of fact, the service status of semi permanent employees are superior to that of temporary Government employees provided both of them are working against the substantive post of permanent nature and not of an ad hoc nature in a time bound project or scheme. A temporary Government employee is always appointed against the substantive post likely to be made permanent in a permanent department while casual work-charged employees are ordinarily appointed in a temporary time bound project or scheme, their services automatically come to an end in which he was appointed as casual worker / work-charged employee. In such cases, if dispute is brought before the Court of law and then if it is found that the post against which a particular employee was appointed, was not a time bound project or scheme but the post against which he was appointed, was of permanent nature but the appointing authority instead of appointing him as temporary employee arbitrarily appointed him as casual / work -charged employee, then in such situation, such casual / work charged employee shall be treated as temporary employee and will fall within the ambit of Rule 179 of the RSR. In such cases, the courts of law are required to lift the veil, examine the propriety of the nature of appointment and to ascertain as to whether the post against which the appointing authority would have appointed an employee as temporary employee but instead of appointing him as a temporary employee against the substantive post, he appointed him against such posts as a casual employee / work-charged employee then irrespective of the fact that the employees appointed as casual work-charged and subsequently attained the status of semi-permanent employee under the rules of 1964 even then he will be entitled to get the benefit of pension as contemplated under Section 179 of the RSR. In the present case, after lifting the veil, I am fully satisfied that the post of Chowkidar at PWD Dak Bungalow was a substantive post of permanent nature. The post against which the petitioner's deceased-husband was appointed, was not an ad hoc nature in a time bound project or scheme, therefore, even if he died in service as a semipermanent employee as admitted by

the answering-respondents in their reply to show cause notice even then he shall be entitled to all pensionary benefits as contemplated under Rule 179 of the RSR for the reasons stated above and his widow (present petitioner) likewise shall be entitled for family pension and an argument contrary to it is hereby repelled.

14-A. Lifting of veil by way of judicial review is made applicable to the Government Employees working under the State of Rajasthan for the reason that the rule of master and servant in its original absolute form is not applicable to Government Servants. To bring it in tune with vastly changed and changing the day, much of this old, antiquated and unjust doctrine of master and servant has been eroded by judicial decisions and legislation, particularly in its application to persons in public employment, to whom the Constitutional protection of Articles 14, 15, 16 and 311 of the [Constitution of India](#) is available.

14B. Secondly, it must be taken to be well-settled law that the expression 'matters relating to employment' used in Article 16(1) is applicable to initial matters prior to the act of employment and also comprehends all matters in relation to employment both prior and subsequent to the employment which are incidental to the employment and form part of the terms and conditions of such employment, such as provisions as to salary, increments, leave, gratuity, pension, age of superannuation, promotion etc.

14C. Thirdly, it is well to remember that Article 14 of the [Constitution of India](#) strikes at arbitrariness in State action and ensures fairness and equality of treatment. It requires the state action must not be arbitrary but must be based on some rational and relevant principle which is non-discriminatory in nature. The state action must not be guided by any extraneous or irrelevant consideration which may result in denial of equality. If any authority is needed from the above enunciation to the reference made by Hon'ble Bhagwati, J. (as he then was) in the case of Ramana Dayaram Shetty v. The International Airport Authority of India and Ors. reported in (1979-II-LLJ-217) where it is ruled by the Apex Court that the principle of reasonableness and rationality which is legality as well as philosophically an essential element of equality or non-arbitrariness is projected by Article 14 and it must characterise every State action, whether it be under authority

of law or in exercise of executive power without making of law.

14D. In view of the aforesaid facts and circumstances, the state cannot be permitted to act arbitrarily in appointing a person against the substantive post in a permanent department as casual/ work-charged employee and make temporary appointment in an adhoc time bound project or scheme, where a person is entitled to be appointed as casual (work-charged employee) till completion of temporary project or scheme. If principle of lifting of veil is not extended to examine the initial appointment, it may lead to hostile discrimination by adopting the principle of pick and choose, as has been done in the present case. Although in the present case the post of Chowkidar at PWD Dak Bungalow was a post of permanent nature where the Government was required to appoint the petitioner's deceased husband as a temporary Chowkidar likely to be made permanent not as a casual / work - charged employee as he has been held in the earlier part of this judgment that a casual / work-charged employee can be employed only in those cases where the post is of temporary nature in a time bound project or scheme.

14E. All of us know that judicial review is a basic feature of our Constitution which is also extended to prior appointment of a Government Employee for the reason stated above.

15. Now, in the instant case, the question remains about qualifying service. It is not in dispute before me that the petitioner was given status of semipermanent employee and post of Chowkidar against which he was working, was a regular nature not of an ad hoc nature in a time bound project or scheme. According to the learned counsel for the respondents, this amended Pension Rules, 1975, cannot be given retrospective effect. No such amended Pension Rules have been brought to my notice while it is not disputed that Rule 179 of the RSR was in existence on October 19, 1963 when the Petitioner's deceased husband expired while in service. In my humble opinion on the basis of existing pension Rule 179 of the RSR which was also operative on the date of death of deceased Mangi Lal, he was entitled for pension and likewise after his death, petitioner Smt. Sayari Devi is entitled for payment of family pension and an argument contrary to it is not acceptable to me.

16. Mr. M.S. Singhvi, learned counsel for the petitioner has placed reliance on a decision rendered by the learned Single Judge of this Court in the case of Smt. Subhadra Devi v. State of Rajasthan, (S.B. Civil Writ Petition No. 30 / 89, decided on April 1, 1992) and a decision rendered by another learned Single Judge of this Court in the case of Ismail Khan v. State of Rajasthan, reported in 1986 RLR 24.1 respectfully agree with the ratio of those two decisions rendered by two learned Single Judges of this Court.

17. Learned counsel appearing on behalf of the respondents strenuously argued before me that the instant writ petition has been filed after inordinate delay of 28 years, hence, it should be dismissed on the ground of laches.

18. Before I proceed to deal with the aforesaid contentions raised by the learned counsel appearing on behalf of the respondents. I would like to recall at this stage the Preamble of the [Constitution of India](#) which throws a flood of light illuminating the path to be pursued by the state to set up a Sovereign Socialist Secular Democratic Republic. The expression 'Socialist' was intentionally introduced in the Preamble by the Constitutional Forty Second Amendment Act, 1976. In the objects and reasons for amendment amongst other things, ushering in of socio-economic revolution was promised to all people of the country. The clarion call given by the aforementioned Constitutional Amendment, would be profitable to quote;--

'The question of amending the Constitution for removing the difficulties which have arisen in achieving the objective of Socio-economic revolution, which would end poverty and ignorance and disease and inequality of opportunity, has been engaging the active attention of Government and the public for some time.....

It is, therefore, proposed to amend the Constitution to spell out expressly the high ideal of socialismto make the directive principles more comprehensive..'

In my humble opinion, the basic object of the aforesaid Forty Second Constitutional Amendment is to provide a decent standard of life to the poor and struggling masses by providing socio-economic security from cradle to grave.

19. After Forty Second Constitutional Amendment, the directive principles of State Policies enumerated under Part IV of the [Constitution of India](#) have been made more comprehensive. It would be pertinent here to quote Article 41 of the [Constitution of India](#), which reads thus:--

'41. Right to work, to education and to public assistance in certain cases:--

The State shall, within the limits of its economic capacity and development make effective provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age., sickness and disablement and in other cases of undeserved want.'

20. It is well to remember that amended Preamble of the Constitution directs the centres of powers, legislative, executive and judiciary to set up a socialist state making effective provisions for securing right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want Here in the present case, old age of the poor starving petitioner is not in dispute. This Court has no alternative except to decide and interpret the amended Preamble of the Constitution and to direct the payment of Family Pension to the petitioner keeping in view the amended Preamble of the Constitution in the light of Article 41 of the [Constitution of India](#).

21. It is well to remember that the old age has to come in the life of every one, as has come to the poor starving petitioner, who is running from pillar to postto obtain family pension after death of her husband Shri Mangi Lal. I am taking the aforesaid view in the light of the judgment of Apex Court rendered in the case of Randhir Singh v. Union of India (1982-I-LLJ-344) at 345 wherein Hon'ble O. Chinnappa Reddy, J. speaking for Court, observed;

'Now, thanks to the rising social and political consciousness and the expectations roused as a consequence and the forward looking posture of this Court, the under-Privileged also are clamouring for their rights and are seeking the intervention of the Court with touching faith and confidence in the Court. The judges of the Court have a duty to redeem their constitutional oath and do justice no less to the pavement dweller than to the guest of the Five Star Hotel.'

22. An identical question has arisen before Apex Court in the case of People's Union of Democratic Right v. Union of India, (1982-II-LLJ-454) at p-458 where in Hon'ble Bhagwati, J. speaking for the Court, observed in paragraph 3, which is quoted for ready reference;

'.....

The time has now come when the Courts must become the Courts for the poor and struggling masses of this Country. They must shed their character as upholder of the established order and the status quo. They must be sensitised to the need of doing justice to the large masses of people to whom justice has been denied by a cruel and heartless society for generation.....'

23. The law declared; by their Lordships or the Supreme Court in the case of Randhir Singh (supra) and People's Union for Democratic Rights (supra) is law of land as contemplated under Article 141 of the [Constitution of India](#) and all authorities Civil and Judicial in the territory of India are required to act in the aid of Supreme Court as envisaged under Article 144.

24. In my humble opinion, a large number of men, women and children who constitute large number of population are today living a sub-human existence in conditions of abject poverty including the petitioner who is running from pillar to post making representations after representations for payment of family pension which has resulted in to fiasco and ultimately she approached this Court invoking the extra-ordinary jurisdiction under Article 226 of the [Constitution of India](#) through a letter which was converted into a writ petition. In such a situation, in my humble opinion it would not be proper to deny her justice on the ground of inordinate delay of 28 years as argued by the learned counsel for the respondents. The rule of law does not mean that protection of law must be available only to fortunate few guest of Five State Hotel but it should also be awarded to poor starving people who are illiterate, socially educationally and economically are in disadvantaged position having no knowledge and awareness where to go for redressal of their grievances with empty hand. This Court cannot afford to open its gate only for affluent wealthy people of the State to unlock the door of justice with promptitude having large influence and economic power.

25. Entertainment of the writ petition by letter is of a recent origin which for the first time opened the gate of justice to the poor struggling down-trodden ignorant illiterate masses having no knowledge where to go for redressal of their grievance with empty hand. The exercise has been made possible by recent judgment delivered by the Apex Court in Judges' Appointment and Transfer Case on the basis of which the poor illiterate starving petitioner who is not aware of her legal rights approached this Court for improving her life condition on the advice of some public spirited person by moving a letter to this Court for payment of family pension which cannot be denied by this Court on the ground of laches of more than 28 years as argued by the learned counsel for the respondents. In my humble opinion, it is one of the solemn aims and objects of law and law courts to protect the lamb from lion within the frame-work of our Constitution. Keeping in view the aforesaid proposition of law together with the facts and circumstances of the instant case as state above, the argument of laches advanced by the learned counsel appearing on behalf of the respondents is not acceptable to me and as such hereby repelled.

As a result of the afore-mentioned discussion and in the facts and circumstances of the present case. the writ petition is allowed and the respondents are directed to treat deceased Mangi Lal as permanent employee of Public Works Department. Since, he was a permanent Government Servant and he died in service, therefore, the petitioner shall be entitled to family pension in accordance with the Rules discussed above.

The Chief Engineer, Public Works Department, Government of Rajasthan, Jaipur is directed to get the papers of family pension of the petitioner's deceased-husband prepared in his personal supervision and forward the same to the concerned authorities within three months from the date of receipt of certified copy of this order sent to him from the office of the Registry of this Court for releasing the family pension to the petitioner with entire arrears from the date of her entitlement i. e October 19, 1963 with all consequential benefits together with an interest on the arrears due at the rate of 12 % per annum and continue to pay her family pension till her life time.

In the penultimate lines of this judgment, I record my appreciation for assistance rendered by Mr. M. S. Singhvi, learned Amicus Curiae appointed by this Court on January 10, 1995.

Before parting with the judgment, I would like to observe with judicial restraint that Rajasthan Legal Aid Committee, Rajasthan High Court at Jaipur headed by its Executive Chairman is a statutory body created under newly inserted Article 39A of the [Constitution of India](#) by Constitution (Forty Second) Amendment Act, 1976, which is made effective with effect from January 31, 1977. According to spirit of the aforesaid newly inserted Article 39A of the [Constitution of India](#), the aforesaid Committee is charged with legal assistance to poor or indigent struggling masses who are entitled to approach Legal Aid Committee for protection of their life, personal liberty and property with empty hand. Thus, it is necessary sine qua non of justice not to provide assistance of a lawyer only but assistance of a competent lawyer, capable to assist the court effectively on the subject matter of the is in between the parties and, where it is not so provided injustice is likely to result.

Undeniably, every act of injustice corrodes the foundations of democracy and supremacy of rule of law, because nothing rankles more in the human heart than a feeling of injustice. Those poor struggling masses, who approached the Rajasthan Legal Aid Committee with empty hand, will not get justice unless a fool proof mechanism is evolved by the Legal Aid Committee, as it thinks fit, to attract participation of competent lawyers in legal aid movement, who have compassion for poor struggling masses, so that, a feeling may not over-take such poor and indigent people that the legal aid movement launched in State of Rajasthan is not merely a slogan or myth intended to perpetuate the domination of rich and powerful.

In order to achieve the object enshrined under newly inserted Art. 39A of the [Constitution of India](#), it is desirable to keep only those competent lawyers on the roll of Rajasthan Legal Aid Committee. Rajasthan High Court, who have compassion for poor and indigent people and further firmly believe and treat the legal profession as service oriented endeavour and not a source of accumulation of wealth.

Certified copy of this order be sent to the Chief Engineer Public Works Department, Government of Rajasthan, Jaipur as well as Executive Chairman, Rajasthan Legal Aid Committee, Rajasthan High Court at Jaipur, forthwith.

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