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Court : Rajasthan

Decided On : Aug-28-1991

Reported in : 1991WLN(UC)399

Judge : G.S. Singhvi, J.

Appeal No. : S.B. Civil Writ Petition No. 3269 of 1991

Appellant : Gulab Singh

Respondent : State of Rajasthan

Disposition : Petition allowed

Judgement :

G.S. Singhvi, J.

1. The short quest on which is required to be decided in this writ petition relates to the claim of the petitioner for grant of salary in the regular pay scale and other benefits.

2. The petitioner was appointed as Class IV employee on daily wage basis in the Education Department. His name had been sponsored by the Employment Exchange and he was selected by a Selection Committee. Order of appointment was issued on 4.7.87 by the District Education Officer (Boy Institutions), Bharatpur. The rate of daily wage was Rs. 11/-and the maximum payable to the

petitioner and similarly situated persons was fixed at Rs. 286/- per month. The petitioner has stated that he has been discharging whole time duties. He has been discharging same duties as are being discharged by Class IV employees who are getting salary in the regular pay scale of Rs. 750-940, a scale which is applicable with effect from 1988. Thek petitioner is being exploited in as much as he is being paid consolidated salary while others doing similar work are being paid salary in regular pay scale. He has also stated that he has been continuously working as Class IV employee for last about 3 years and six months and yet he is not being given benefit of payment of salary in the regular pay scale. He has stated that he has passed High School Examination during the period of service.

3. The petitioner has prayed that the respondents be directed to give him salary in the regular pay scale and also to give him benefits of leave, bonus, HRA, medical facilities and other allowances and further direction be given to the respondents to regularies his service as Class IV employee.

4. Reply to the writ petition has not been filed by the respondents.

5. I have heard learned Counsels for the parties and I am of the opinion that the petitioner is entitles to the relief of payment of salary in regular pay scale of Class IV employees. The principle of Equal pay for equal work which is incorporated in Article 39(d) of the Constitution of India has been held to be a part of the equality clause contained in the Articles 14 and 16 of the Constitution of India. In Randhir Singh v. Union of India : (1982)ILLJ344SC . Surendra Singh v. Chief Engineer C.P.W.D. : (1986)ILLJ403SC . Dhirendra Chamoli v. Slate of U.P. : (1986)ILLJ134SC , R.D. Gupta v. Union Governor, Delhi Administration : [1987]3SCR808 Bhagwandas v. State of Haryana : [1987]3SCR714 , Daily rated casual labour employed under P & T Department v. UOI : (1988)ILLJ370SC , Jaipl v. State of Haryana 1988 (3) S.C.C. 354 and Dharwar District PWD literate daily wage employees Association v. Slate of Karnataka : (1990)IILLJ318SC , their lordships of the Supreme Court have emphatically laid down and reiterated the principle that all persons doing similar work are entitled to be paid similar wages. Denial of the benefit of the principle of equal pay for equal work amounts to violation of the constitutional right of equality & equal protection of laws. The court

has held that the duties need not to be exactly identical but should be broadly similar for the purpose of entitlement of the benefit of principle of equal pay for equal work.

6. In the present case the petitioner has made unequivocal statement that he is discharging the same duties as are being discharged by those Class IV employees who are being paid salary in regulare pay scale. In view of this statement it must be held that the denial of salary to the petitioner in regular pay scale is wholly arbitrary and discriminatory.

7. Likewise it is born out from the petition that the petitioner has rendered more than 4 years service by now in the Department. He is continuously working as Class IV employee. Therefore, in the light of the principles laid down by Dharwar District PWD literate Daily Wage Employees Association v. State of Karnataka (Supra) the petitioner was entitled to be considered for regularisation. Even the government circulars issued under the Rajasthan Class IV Servants (Recruitment and other service conditions) Rules, 1963 it has been emphasized that preference should bed given to daily wage appointees in the matter of regularisation of service.

8. The writ petition, therefore, allowed. The respondents are directed to pay to the petitioner's salary in regular pay scale of Class IV employees with effect from 2.1.91 that is dale of filing of the writ petition. Arrears should be paid to the petitioner within 2 months of the presentation of copy of this order. The respondents should also consider the case of the petitioner for regularisation of service in accordance with the seniority amongst daily wage appointees and an appropriate order in this regard be passed within 2 months of the date of presentation of the copy of this order.

I artie are left to bear their own costs.

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