

Ram Awadh Vs. Jammu and Kashmir State Agro Industries Developmen

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Court : Delhi

Decided On : Dec-14-2012

Judge : Suresh Kait

Appellant : Ram Awadh

Respondent : Jammu and Kashmir State Agro Industries Developmen

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P. (C) 2877/2011 %
Judgment reserved on:

11. 12.2012 Judgment delivered on:

14. 12.2012 RAM AWADH Petitioner Through: Mr. Tarique Siddiqui and Ms. Rakshan Ahmed, Advs. versus JAMMU AND KASHMIR STATE AGRO INDUSTRIES DEVELOPMENT CORPORATION LTD AND ANR. Respondents Through: Mr. V.K. Dhar, Adv. CORAM: HON'BLE MR. JUSTICE SURESH KAIT SURESH KAIT, J.

1. Vide the instant petition the petitioner is seeking mandamus directing the respondents to place the petitioner in the grade of Rs.300650 (pre-revised) from the date of his appointment i.e. 14.08.1980.

2. It is further prayed that the respondents be directed to pay the petitioner the difference of pay and allowances which the petitioner will be entitled to in the event of grant of above prayer.

3. Also seeking mandamus directing the respondents to grant all the consequential benefits of service as a Senior Store Keeper to the petitioner in respect of seniority, promotion and all other consequential benefits on the basis of his appointment as Senior Store Keeper in the Grade of Rs.300-650 with effect from 14.8.1980.

4. Facts of the case briefly are that the petitioner was appointed vide order dated 14.8.1980 as Senior Store Keeper in the pay scale of Rs.260-500 plus usual allowances as admissible under rules by the Selection Committee and was posted at J & K Cold Storage and Ice Factory, B-13-14, Lawrence Road, Delhi.

5. It was the further condition of the appointment letter that he will report for duty to the Divisional Manager, Delhi, Cold Storage Division, at the address mentioned above.

6. Vide order dated 18.4.1998, the sanction was accorded to the placement of the petitioner, by the Managing Director of the respondent, in the pay scale of Rs. 950-1790 (pre-revised) in the Grade of Rs. 1300-2250 (pre-revised) in order to remove grade disparity in the cadre of Senior Store Keeper as enjoyed by the similarly situated counterparts discharging duties of identical nature within the corporation.

7. In the aforesaid order, it was specifically mentioned that this order shall be effective immediately and was issued without prejudice to the seniority or superior claims of other employees and no claim for arrears by the above-mentioned Senior Store Keepers shall be entertained by the Management.

8. The petitioner being aggrieved by the aforesaid order, filed the writ petition being WP (C) No. 4261/2003 which was disposed of vide order dated 14.9.2009 which reads as under :3. Counsel for the petitioner relies upon an order of 8th April, 1997, in writ petition no. 3983/1991, titled as Shri Kanwar Singh Rana Vs. Jammu & Kashmir State Agro Industries Development Corporation Ltd., wherein similar relief has been granted by the respondent corporation to a plant helper from the date of his appointment. It is further stated by counsel for the petitioner that a similarly placed employee Shri Roop Chand, Senior Store Keeper, with the respondent-Corporation has been granted the grade of Senior Store Keeper with

effect from the date of his appointment and arrears have been also paid to him vide order of 4th July, 1987 (Annexure-K).

4. Counsel for the respondents points out that it has not been so pleaded in the writ petition nor reliance upon the order in the case of Kanwar Singh Rana (Supra), has been made.

6. In the light of the aforesaid, it would be appropriate to direct the petitioner to make a comprehensive representation before the respondent-Corporation within a period of four weeks and the respondent-Corporation is directed to decide the same within a period of eight weeks by passing a speaking order, after giving an opportunity of hearing to the petitioner, if it is so desired. The fate of the representation of the petitioner be communicated to him within a period of two weeks, thereafter.

7. This petition stands disposed of, with directions as aforesaid.

9. In pursuance of the direction issued by this Court, vide order dated 14.09.2009, as referred above, the petitioner made representation and the same was disposed of vide order dated 3.5.2010 mainly on the ground that the corporation was not in a position to pay arrears accrued due to the retrospective effect issued vide Order No. Agro/Adm/150 AIDCL of 2005 dated 28.4.2005, which was simply for the purpose of fixation.

10. Counsel for the petitioner has relied upon a judgment rendered in WP (C) No. 3983/1991 passed against the same very respondent, which reads as under :I have heard learned counsel for the parties. This is not disputed that the petitioner was appointed by the order dated 24th May, 1982 and at that time the prevalent grade of Helper was 250-382 which was later on revised to 415-10-465 EB-12-645. In this view of the matter, the writ petition filed by the petitioner is allowed and the petitioner is entitled for the consequential relief. The petitioner ought to be given the benefit of the aforesaid grade from the date of his appointment. The balance outstanding amount shall be paid to the petitioner within two months from today. The writ petition & CM No. 1197/1996 are accordingly allowed disposed of.

11. The respondent being aggrieved by the aforesaid direction passed by this Court, filed LPA bearing No. 147/1997. The same was dismissed vide order dated 21.7.1997 by the Division Bench of this Court.

12. Thereafter, the respondent filed the SLP against the aforesaid order and the same was dismissed vide order dated 20.10.1997.

13. Counsel for the petitioner submits that the facts of the case are not disputed by the respondent. However, the respondents are taking the plea that the respondent-Corporation is in financial crisis and therefore, they could not pay even the gratuity of some of the employees, who retired from the Corporation.

14. On the other hand, Mr. Dhar, learned counsel appearing on behalf of the respondents-Corporation submits that the respondent no.1 is a Government undertaking Corporation. One Shri Darshan Kumar Pedral and Shri Roop Chand were employed as Storekeeper in 1975 on a salary of Rs. 220-430, and thereafter Shri Kehar Singh was also employed on 14.5.1980 on a monthly salary of Rs. 260-500. It was so done as the salaries were revised for the post held by Shri Darshan Kumar Pedral and Kehar Singh.

15. The petitioner was appointed in the month of August, 1980 in the grade of Rs. 260-500. The above mentioned employees were working as Senior Store Keepers, but at that time there was no post of Senior Store Keeper available at Delhi/New Delhi and as such, the said employees were given the grade of Store Keepers.

16. The said employees represented before the management for removal of the grade disparity in the cadre of Senior Store Keepers as enjoyed by similarly situated counterparts discharging similar duties of identical nature within the Corporation in other divisions.

17. The said employees including the petitioner were not satisfied with the aforementioned grade and they filed the writ petition in this Court seeking retrospective effect. On filing of this petition, the matter was again examined by the respondent no.1 on the recommendations of Delhi office and the petitioner

including Shri Darshan Kumar Pedral and Shri Kehar Singh were ordered to be placed in the grade of Senior Store Keepers i.e. of Rs. 4200-6040 respectively from the date of their initial appointment with the condition that no arrears whatsoever by virtue of the said placement will be paid to the said employees including the petitioner keeping in view the poor financial position of the Corporation. To this effect said order was passed on 28.4.2005.

18. Counsel for the respondent no.1 further submits that as a matter of policy in vogue from decades on account of financial position of the respondent-Corporation, no arrears were and are being paid to any of its employees, even in case of promotion.

19. It is further submitted that on account of said condition of the Corporation, the Corporation as a policy decision passed the order dated 27.4.2010 whereby it was decided that the arrears of gratuity etc. shall be paid in 48 equal monthly installments.

20. He further submits that the Corporation had been sustaining losses year by year and on account of the losses suffered by the respondent, the Corporation took a policy decision applicable to all the employees of the Corporation and passed the order as mentioned above.

21. I heard Id. Counsel for the parties.

22. No doubt, the petitioner was appointed in the year 1980 as Sr. Store Keeper in the grade of Rs. 260-500 plus usual allowances as admissible under the rules.

23. It is also not disputed that vide order dated 18.4.1998, the pay scale of Rs. 950-1790 (pre-revised) of Senior Store Keeper was revised to the grade of Rs. 1300-2250 (pre-revised) in order to remove the disparity in the cadre of Senior Store Keepers as enjoyed by the similarly situated counterparts discharging duties of identical nature within the Corporation.

24. Further it is not disputed that one Store Keeper namely Sh. Roop Chand was appointed in the year 1975 and promoted on 04.07.1987 to the post of Senior Store Keeper in the Grade of 525-10-545-12-665EB-15-770-20-910.

25. The respondents also admitted in Para 15 of their counter- affidavit that Grade of 525-10-545-12-665-EB-15-770-20-910 was prescribed for the post of Senior Store Keeper in the year 1980.

26. Respondents also issued an order dated 15.11.1993 (produced in court) whereby the Grade of the Senior Store Keeper had been revised from 300-650 (old grade) to 525-10-545-12-665-EB-15-770-20-910 (revised grade).

27. In view of the above discussion, I am of the considered view that petitioner was appointed as Senior Store Keeper but the pay scale wrongly given to him was of 260-500 instead of 300-650. Consequently, respondents are directed to place the petitioner in the grade of Rs.300-650 from the date of his appointment i.e. 14.08.1980. Thereafter, the respondents shall pay the petitioner the difference of pay and allowances with all consequential benefits of service as Senior Store Keeper.

28. Instant petition is allowed on the above terms with no order as to costs. CM. No. 6118/2011 (Stay) In view of the above instant application has become infructuous and disposed of as such. SURESH KAIT, J DECEMBER 14 2012 Jg

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