HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 13287/2020

1. Shri Nivash Verma S/o Late Shri Mathura Lal Verma, Aged About 59 Years, Resident Of P.no. 113 Bhopal Nagar, Sawai Madhopur. At Present Resident Of 2 (GH) / 25, Housing Board Colony, District Pali (Raj.).
2. Girraj Prasad Verma S/o Late Shree Motilal Verma, Aged About 54 Years, R/o Shanti Nagar, Kherda, Sawai Madhopur. At Present Posted As An LDC At Assistant Director Social Justice And Empowerment Department, District Pratapgarh (Raj.).

----Petitioners

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Social Justice And Empowerment, Govt. Of Rajasthan, Secretariat, Jaipur (Raj.).
2. The Commissioner Of Social Justice And Empowerment Department, Residential Hotel Ke Pichhe, Ambedkar Bhawan, Jaipur (Raj.).
3. The Additional Director Of Social Justice And Empowerment Department, Residential Hotel Ke Pichhe, Ambedkar Bhawan, Jaipur (Raj.).

----Respondents

For Petitioner(s) : Mr. Vinod Pathak through Cisco Webex App

JUSTICE DINESH MEHTA

Judgment

17/12/2020

Learned counsel for the petitioners, at the very outset, submits that the controversy raised in the instant writ application stands resolved in view of the adjudication made by a Co-ordinate Bench of this Court in case of *Sardar Mal Vs. State of Rajasthan & Ors.: SBCWP No. 9772/2011*, decided on 7th August, 2012 and

Man Singh Hada and Ors. Vs. State of Rajasthan & Anr.: SBCWP No. 8124/2012, decided on 28th January, 2014.

It is further contended that a Division Bench of this Court has also observed in the case of Brij Lal Bundel Vs. State and Anr., that if the order of suspension is revoked and the employee is reinstated in service, he, as per Rule 29 of the Rajasthan Service Rules, is entitled to annual grade increments. Reference is also made to the adjudication by a Co-ordinate Bench of this Court taking note of the cases aforesaid in the case of Ajeet Singh Vs. State of Rajasthan & Ors., decided on 3rd November, 2014, holding thus:

> "Learned counsel has submitted that a division bench of this Court in Brij Lal Bundel vs. State and Another - 2007 (1) RLW 484 has also held that when the order of suspension is revoked and the employee is reinstated in service, he, as per Rule 29 of the Rajasthan Service Rules, becomes entitled to annual grade increments as the increment has to be drawn in the matter of course unless withheld. The period of suspension is normally treated as period spent on duty for the purpose of pension. If the period is treated as spent on duty, there would not be break in service and therefore there is no reason why the government servant was deprived of annual grade increments falling due in the suspension period after his reinstatement. It was held that denial of annual grade increments in such a scenario would tantamount to withholding increments, which is a penalty specified under Rule 14 of the Rajasthan Civil Services (CCA) Rules, 1958, which penalty cannot be imposed without observing the procedure envisaged in Rule 16 and 17 of the CCA Rules."

Learned counsel for the petitioners further submits that at this stage, the petitioners will be satisfied if the State respondents are directed to decide the representation of the petitioners, within

a time frame, which they are ready and willing to address within a period of two weeks.

In view of the limited prayer addressed; the instant writ proceedings are closed with a direction to the petitioners to address a comprehensive representation within two weeks hereinafter, enclosing a copy of the judgment, which has been referred to and relied upon in support of his claim.

In case, a representation is so addressed within the aforesaid period, the State-respondents are directed to consider and decide the same by a reasoned and speaking order in accordance with law as expeditiously as possible, however, in no case later than three months from the date of receipt of the representation along with a certified copy of this order.

Upon consideration of the representation so filed, if respondents find the case of the petitioners to be covered by the judgment(s) aforesaid, before giving actual benefits, an undertaking shall be procured from the petitioners to the effect that their rights/entitlements shall be subservient to the fate of the judgment(s) aforesaid and in case the same is reversed or modified in any manner, they shall also be liable for restitution of any benefits/emoluments so received.

With the observations and directions, as indicated above, the writ petition stands disposed of.

The stay application is also disposed of.

(DINESH MEHTA),J

136-Ramesh/-