HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 18933/2019

1. Chhotu Lal Mali S/o Shri Braj Mohan Mali, Aged About 30 Years, R/o Opp. Bavri, Village Kustla, District Sawaimadhopur.
2. Abhishek Shrimal S/o Badri Lal Shrimal, Aged About 30 Years, R/o House No. 04, Regaro Ka Mohalla, Gogor, Post Selu, District Sawaimadhopur.

----Petitioners

Versus

1. State Of Rajasthan, Through Principal Secretary, Secondary Education Department, Govt. Of Rajasthan, Secretariat, Jaipur.
2. The Director, Secondary Education, Bikaner.
3. Deputy Director, (Secondary Education) Kota Zone, Kota.

----Respondents

For Petitioner(s) : Mr. Rajesh Kumar Bharadwaj
Mr. V.R. Choudhary

JUSTICE DINESH MEHTA

Judgment

02/01/2020

Learned counsel for the petitioners submits that the issue raised in the present writ petition is squarely covered by judgment of this Court in *Manoj Khandelwal & Ors. v. State of Rajasthan & Ors. : S.B.C.W.P. No. 7283/2014*, decided on 16.07.2014 at Jaipur Bench and the said judgment has been followed in *Krishan Lal & Ors. v. The State of Rajasthan & Ors. : S.B.C.W.P. No. 19179/2017*, decided on 30.10.2017 at Jaipur Bench. The petitioner is also entitled to the same relief as granted in the case of Manoj Khandelwal (supra) and Krishan Lal (supra) claims learned counsel.

In view of the submissions made, the writ petition filed by the petitioner is disposed of with the similar directions as given in the case of Manoj Khandelwal (supra), which read as under:-

> "This Court in Suman Bai and Another Vs. State and Others – 2009 (1) WLC (Raj.) 381, held that candidates in lower order of merit cannot become entitled merely because they had approached court earlier. Petitioners had a fresh cause of action for approaching in such situation and their writ petition not barred either as res judicata or as being him in properly constituted. This directed the respondents to treat petitioners senior to respondents, who were in lower order of merit.
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> It is further contended in the writ petition that in the matter of School Lecturers (English) in the same Department, where appointments were delayed because of the fault of the State authorities, the candidates were accorded appointment from the date the candidates stood lower in merit were appointed and they have been granted all consequential benefits of services.
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> The petitioners approached the respondents by way of representations for extending them same benefits of service which have been granted to the candidates who stood lower in merit than the petitioners, but till date nothing has been done. Hence, this writ petition on behalf of the petitioners for a direction to the respondents to treat their appointment from the date the candidates lower in merit, were given, with all consequential benefits of service, such as seniority, continuity of service, pay fixation, grant of annual grade increments.
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> Having regard to the facts of the case, writ petition is disposed of requiring the petitioners to make a representation to respondent no.2 – Director, Secondary Education, Bikaner, alongwith a copy of this order, who shall, after verifying the facts stated above, consider and decide the same by a speaking order within a period of three months from the date of its making, addressing the grievance of the petitioners for extending them the relief as prayed for, as the candidates, who stood lower in merit, are getting benefit of higher pay, seniority, annual grade increments and other service benefits including the selection scales. If the respondent no.2 decides to place the petitioners above in seniority than the candidates who stood lower in merit, then the petitioners would be entitled to all benefits of seniority but they would be entitled only to notional benefits."

(DINESH MEHTA),J

86-Ramesh/-