HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 3475/2025

1. Champa Lal Sharma S/o Shri Gisu Lal Sharma, Aged About 59 Years, R/o Village Kanwalas, Tehsil Asind, Dist. Bhilwara, Raj. At Present Posting Gps Marwo Ka Khera, Peeo Rooppura, Tehsil Asind, Dist. Bhilwara.
2. Mashakoor Ahemed Shekh S/o Shakoor Ahemed, Aged About 59 Years, R/o Maszid Mohalla, Asind, Dist. Bhilwara, Raj. At Present Posting Gups Peeo Raghunathpura, Tehsil Asind, Dist. Bhilwara.
3. Rakrudeen Kayamkhani S/o Khaju Khan, Aged About 63 Years, R/o Jama Maszid Ke Pichhe, Hathi Mohalla Badnoor, Dist. Beawar, Raj. At The Retirement Time Working Gps Kolpura, Peeo Bojpura, Dist. Beawar (Old District, Bhiliwara).
4. Amarchand Mochi S/o Chandmal Mochi, Aged About 62 Years, R/o Teliyon Ka Mohalla Mukam Post Asind, Dist. Bhilwara, Raj. At The Retirement Time Working Gps Mokampura, Peeo Kanwalas, Tehsil Asind, Dist. Bhilwara.
5. Gopal Lal Sharma S/o Utsav Lal, Aged About 61 Years, R/o Loharo Ka Mohalla, Bagore, Tehsil Mandal, Dist. Bhilwara, Raj. At The Retirement Time Working Gsss Bavlas, Peeo Bavlas, Tehsil Mandal, Dist. Bhilwara.
6. Radhe Shyam Sharma S/o Ratan Lal Sharma, Aged About 60 Years, R/o Vpo Ghodas, Via Bagore, Tehsil Mandal, Dist. Bhilwara, Raj. At The Retirement Time Working Gps Daulatpura, Peeo Jorawarpura, Tehsil Mandal, Dist. Bhilwara.
7. Ratan Lal Lakhara S/o Shri Mohan Lal, Aged About 61 Years, R/o Rupaheli Khurd, Tehsil Mandal, Dist. Bhilwara, Raj. At The Retirement Time Working Gsss Laduwas, Peeo Laduwas, Tehsil Mandal, Dist. Bhilwara.
8. Laxmi Lal Kakhani S/o Kishan Lal Kakhani, Aged About 58 Years, R/o 7-H-24 Chandrasekhar Azad Nagar, Bhilwara, Dist. Bhilwara, Raj. At Present Posting Gsss Bavlas, Peeo Bavlas, Tehsil Mandal, Dist. Bhilwara.

----Petitioners

Versus

1. The State Of Rajasthan, Through Secretary, Education

Department, Government Of Rajasthan, Secretariat, Jaipur, Rajasthan.

2. Director, Secondary Education, Bikaner.
3. Director, Elementary Education, Bikaner.
4. Joint Director, Secondary Education, Ajmer.
5. Chief District Education Officer, Bhilwara.
6. Chief District Education Officer, Beawar.
7. District Education Officer, Secondary, Bhilwara.
8. District Education Officer, Elementary, Beawar.
9. The District Education Officer, Elementary, Bhilwara.

----Respondents

For Petitioner(s) : Mr. Tanwar Singh Rathore
For Respondent(s) :

JUSTICE DINESH MEHTA

Order

07/02/2025

1. Learned counsel for the petitioners submitted that the controversy involved in the present case is squarely covered by a judgment of this Court rendered in ***S.B. Civil Writ Petition No.14444/2015 (Smt. Saroj Bala Bhatt & Anr. Vs. State of Rajasthan & Ors.)*** and other connected matter, decided on 04.08.2022, which reads as under:-

> *"The present writ petitions have been filed against the order dated 31.10.2015 whereby the earlier order vide which the monetary benefits in pursuance to the selection grade were granted to the petitioners has been ordered tobe cancelled. Learned counsel for the petitioners submitted that the issues as to from which date the benefit of selection grade and regularisation has to be*

granted and whether the benefit already granted can be withdrawn, were under consideration in the matter of ***State of Rajasthan & Ors. Vs. Chandra Ram (D.B. Special Appeal Writ No.589/2015)*** *decided on 07.07.2017.*

While replying to the said issues, the Division Bench held as under:

"37. QUESTION A

For the reasons and discussions aforesaid and in view of the law declared by the Supreme Court in the case of Jagdish Narain Chaturvedi and Surendra Mahnot & Ors. (supra); we are of the opinion that the respondent – employee would stand regularized from the date of regularization in service and not prior to that.

38. QUESTION B

Taking into consideration the recent decision, prior to two decades the regularization period was not questioned by anybody, therefore, in a writ petition filed by the petitioner it will not be appropriate for us to allow the Government to end the regularization. However, regularization will be from the date of regularization done by the department and not prior thereto.

39. QUESTION C

The contention of the counsel for the employees is required to be accepted and it cannot be annulled unless it has been annulled by appropriate authority. However, the benefits shall not be withdrawn but in future when the benefits are to be accorded for further promotion, the same will be considered on the basis of new law declared by the Supreme Court i.e. period will be considered from the date of regularization. When the future benefit of 9, 18 and/

or 27 will be considered their ad-hoc service will not be considered for the purpose of benefit of 9, 18 and/or 27 years. But if benefit has already been granted for all the three scales; the same shall not be withdrawn and no recovery will be made from the employees.

40. QUESTION D

In view of our answer in above matters, it is very clear that for the purpose of regularisation the date of regularisation will be from the date of regular appointment. In that view of the matter, there cannot be two dates for the purpose of seniority and the other benefits. However, earlier services will be considered for the purpose of the same if there is a shortage in pensionary benefits.

41. QUESTION E

In view of the observations made by the Supreme Court, as referred to above, the ad-hocism will not be considered for seniority. In that view of the matter, there will be only one date for regularization, date of regularizing ad-hoc period will not have any effect on seniority. In our considered opinion, the Division Bench of this Court in the case of State of Rajasthan & Ors. vs. Gopa Ram in DB Civil Special Appeal No.44/2016, decided on 18.04.2016 had no right to distinguish the judgment of the Supreme Court in the case of Jagdish Narayan Chaturvedi (Supra) and State of Rajasthan vs. Surendra Mohnot & Ors.(supra). Thus, the decision of State of Rajasthan & Ors. vs. Gopa Ram (supra) did not lay down correct law. The correct law would be the law declared by the Supreme Court in the two judgments referred hereinabove."

Learned counsel for the respondents also admitted the issue in question to be covered by ***Chandra Ram's*** *case (supra).*

In view of the ratio as laid down in ***Chandra Ram's case*** *(supra), the present writ petitions are allowed on the same terms and conditions.*

All the pending applications also stand disposed of."

2. For the self same reasons, the present writ petition is disposed of in light of the judgment rendered by this Court in the case of ***Smt. Saroj Bala Bhatt*** (supra).

3. It is made clear that in case any recovery is made by the respondents in pursuance of the grant of ACP, the petitioners will be free to move appropriate representations in accordance with law for the refund of the recovery.

4. Stay application also stands disposed of.

(DINESH MEHTA),J

20-Arun/-