HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 8713/2019
CNR: RJHC020432532019 | URN: CW / 15443U / 2019

Kanhaiya Lal Saini (Mali) S/o Shri Bhagwana Ramji Mali, Aged About 67 Years, R/o Ward No. 42, Near Badri Narain Mandir, Churu, Rajasthan.

----Petitioner

Versus

1. The State Of Rajasthan, Through Principle Secretary, Public Health Engineering Department, Government Of Rajasthan, Secretariat, Jaipur (Raj.)
2. The Chief Engineer (Rural), Public Health Engineering Department, Government Of Rajasthan, Jaipur (Raj.)
3. The Superintending Engineer, Public Health Engineering Department, Circle Churu, District Churu (Rajasthan)

----Respondents

For Petitioner(s)	:	Mr. Parmender Dadhich
For Respondent(s)	:	Mr. Neeraj Batra, GC with Mr. P.L. Bhairwa & Ms. Manvi Maheshwari Mr. Kuldeep Singh Rathore for Ms. Mahi Yadav, AAG

HON'BLE MR. JUSTICE SANDEEP TANEJA
Order

26/10/2026

1. By way of the present writ petition, the petitioner seeks direction to the respondents to grant him the second and third selection grades by fixing his pay in the pay scale of Rs.1,400-2,600 (5000-8000) upon completion of 18 years of service and in the pay scale of Rs.5,500-9,000 upon completion of 27 years of service.

2. Learned counsel for the petitioner submits that the controversy involved in the present writ petition is squarely

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covered by the order passed by a Co-ordinate Bench of this Court in **S.B. Civil Writ Petition No.14456/2016,** titled as **Mitthu Lal Teli Vs. The State of Rajasthan and Ors.**, and other connected matters, decided on 16.02.2017, wherein the following was observed:

"After I have heard counsel for the parties, the question raised in the instant batch of writ petitions remain no more res integra and the issue has been earlier decided in Sohanlal Mathur Vs. State of Rajasthan & Ors. [S.B.Civil Writ Petition No.3631/2008] decided on 17.11.2008. The operative portion of the order reads ad infra:-

> "In view of whatever said above, this petition for writ deserves acceptance and, therefore, the same is allowed. The respondents are directed to allow selection grade to the petitioner on completion of 18 years of service as per para 5 of the notifications dated 25.1.1992 and 17.2.1998. The petitioner is declared entitled for getting the pay scale of Rs.1400-2600 (Rs.5000-8000) as second selection grade on completion of 18 years of service and the pay scale of Rs.5500-9000 on completion of 27 years of service as the third selection grade. The entitlement as declared above is required to be executed by the respondents within a period of six months from today."

The order, referred to above, attained finality after the SLP filed came to be dismissed by the Apex Court on 07.09.2012.

At the same time, in the second batch of writ petitions, which arise from the ld.Tribunal, the State Government preferred writ petitions and those batch of writ petitions [S.B.Civil Writ Petition No.5505/2015 (Additional Chief Engineer, PHED, Jaipur Zone, Jaipur & Anr. Vs. Chhiter Mal Meena)] came to be dismissed confirming order of the ld.Tribunal passed on the basis of the judgment in the case of Sohanlal Mathur (surpa) and this court while dismissing the writ petitions preferred at the instance of the State of Rajasthan observed ad infra:-

"I have given my anxious consideration to rival submissions and perused the material on record.

Although, it may be true that the Supreme Court, while dismissing the SLP filed by the State in the matter of Sohanlal Mathur, supra, had left the question of law open but what is being argued before this court, cannot be said to be purely a question of law. It is common knowledge that the scheme/policy for grant of selection scales to the employees of the State Government and its instrumentalities, was introduced with a view to removing stagnation faced by members of the ministerial/ subordinate services due to non-grant of timely promotion and if the Government, while granting selection scale, does not grant higher emoluments, then prescription of selection grade, as rightly held by this court in Sharvan Kumar, supra, shall be of no consequence. Prescription of same pay scale on grant of selection grade as that of next selection grade, as that of the lower grade, would be illusory benefit, being contrary to the spirit of the scheme. Para 4(i) of the Circular dated 25.01.1992, which is reiterated in Circular dated 17.02.1998, provided that first selection grade, whenever admissible in terms of the said order, shall be the pay of next promotion post in the same service/cadre. It further provided that in case, there is no next promotion post in the same service/ cadre or the employee does not possess the academic qualification prescribed for promotion and in respect of the isolated post, the first selection scale shall be the pay scale corresponding to his pay scale specified in para 5.

Learned Deputy Government Counsel for petitioners would argue that similar provisions are contained in para 4(i) of the Circular dated 17.02.1998 and the Table of the pay scales available in para 5 of the Circular would be applicable to only isolated posts having no avenue of promotion but that argument is not commensurate with the very language of the aforesaid para 4(i), as it envisages other categories as well, namely, when there is no next promotion post in the selection cadre or where employee does

not possess requisite qualification for said promotion. While keeping in view these facts, it has to be decided whether para 5 of the Circular dated 25.01.1992 as also Circular dated 17.02.1998, would be applied in the cases where the department proposes to grant benefit of next selection grade in the same pay scale admissible than the present selection grade. Para 5 of the Circular dated 17.02.1998 indeed provides selection grades when there is no post for first, second or third promotion, as the case may be, in the same service/cadre or the employee does not possess academic qualification prescribed for promotion and in respect of the isolated posts. Contention that in some of these matters, the respondents were work-charged employees and that in their cases, they were made entitled to receive selection grade only in pursuance of Circular dated 04.03.1998 with effect from 01.01.1998, is noted to be rejected for the stated reasons. If these respondents were conferred permanent status on completion of ten years of service, they were thereby brought on regular roll and then became subject to Rajasthan Service Rules, a fact which is not even disputed by the petitioners as they themselves contend that the respondents would not be entitled to the benefit of higher pay scale by grant of second and third selection grade and would be entitled to only additional increment by virtue of Rule 26A of the Rajasthan Service Rules. Having granted benefit of first selection grade to such employees, the petitioners now cannot be allowed to contend that they would not be governed by the scheme contained in Circular dated 25.01.1992. This court in Sharvan Kumar and Sohanlal Mathur, supra, has decided this question in the terms that if the Government do not grant higher emoluments then prescription of selection grade shall be of no consequence. Prescription of same pay scale on completion of 18 years of service as a matter of fact is an illusory benefit and that is not at all grant of selection grade with the spirit of the Circulars/Notifications dated 25.01.1992 and

17.02.1998. This purposive interpretation of para 4 and 5 of the said Circulars has been approved not only by the Division Bench but also by the Supreme Court. This does not involve any question of law and therefore the contention that judgment in Sohanlal Mathur, supra, has not been decided on correct perspective and the matter should be reopened all over again to be decided afresh, cannot be accepted. This court is informed of the fact that the department has made compliance of similar judgments in the case of several employees and therefore, cannot seek to create two classes of employees of the very same Department of the State, who are otherwise similarly situate.

In view of the above discussion, the writ petitions fail and same are hereby dismissed. Stay applications, filed therewith, are also dismissed.

Since this disposes of bunch of writ petitions, office to place a copy of this order in each file of the bunch."

At the same time, one writ petition filed before the main seat at Jodhpur S.B.Civil Writ Petition No.14192/2013 [Gani Khan & Ors. Vs. State of Rajasthan & Ors.] based on the judgment of Sohanlal Mathur (supra) came to be decided on 12.12.2013 and the State preferred D.B.Civil Special Appeal (Writ) No.589/2014 [State of Rajasthan & Ors. Vs. Gani Khan & Ors.] which came to be dismissed vide order dt.27.05.2014 and the SLP preferred at the instance of the State came to be dismissed vide order dt.16.01.2015.

Thus, it can safely be observed that the issued has been finally settled and remains no more res integra and open to be considered by this court.

Consequently, in the light of the judgment, referred to supra, the present batch of writ petitions deserves acceptance.

Before parting with the order, this court would like to observed that once the issue has been settled by the court that the class of employees of which reference has been made are entitled for the grant of selection scale, in

terms of para-5 of the notifications dt.25.01.1992 followed by 17.02.1998, on completion of 18 & 27 years of service, it is expected that the decision of this court may be made applicable in rem to all the employees similarly situated and they shall not be asked to approach this court by filing their respective writ petitions.

Accordingly, the writ petitions are allowed and the respondents are directed to allow selection grade to the petitioners on completion of 18 & 27 years of service as per para5 of the Notifications dt.25.01.1992 followed by 17.02.1998."

3. Learned counsel for the petitioner further submits that the respondents may be directed to decide the petitioner's case in light of the observations made in **Mitthu Lal Teli** (supra) and, therefore, seeks liberty to file a fresh representation in respect thereof.

4. Learned counsel for the respondents has no objection to the same.

5. In that view of the matter, the liberty, as sought for, is granted.

6. In case the petitioner files a representation before the respondents, within a period of 30 days from today, the respondent(s) shall decide the same by a speaking and reasoned order, in light of the order passed by the Co-ordinate Bench of this Court in **Mitthu Lal Teli** (supra), within a period of 60 days from the date of receipt thereof. However, in case any factual difference is found or there exits any reason warranting deviation from the aforesaid observations, the respondents shall be at liberty to consider the same and pass a well-reasoned and speaking order, after affording due opportunity to the petitioner, under intimation

to him. The petitioner shall be at liberty to assail the same, in accordance with law.

7. With the above observations, the present writ petition is disposed of with aforesaid liberty.

8. Pending application(s), if any, also stand disposed of.

(SANDEEP TANEJA),J

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