

PETITIONER:
THE STATE OF RAJASTHAN & ANR.

Vs.

RESPONDENT:
GOPALDAS

DATE OF JUDGMENT 13/01/1995

BENCH:
KULDIP SINGH (J)
BENCH:
KULDIP SINGH (J)
HANSARIA B.L. (J)

CITATION:
1995 AIR 809 1995 SCC (2) 396
JT 1995 (1) 528 1995 SCALE (1) 150

ACT:

HEADNOTE:

JUDGMENT:

KULDIP SINGH, J.:

1. The pay scales of government servants in the state of Rajasthan were revised with effect from September 1, 1981 by The Rajasthan Civil Servants (Revised 529

Pay Scales) Rules, 1983 (the rules). The pay scale of upper Division Clerks (UDCs) of subordinate offices was revised under the Rules from Rs. 385-650 called- scale No (S-9) to Rs. 520-925 (revised s-9). The existing pay-scale of Rs. 440-775 called scale No. 10 (S- 10) in respect of UDCs of Secretariat was revised to that of Rs. 610-1090 (revised S-10). The UDCs of the subordinate offices represented before the Government that there was no justification for denying them the higher pay-scale which was being given to the UDCs of Secretariat. The state Government accepted the representation and by the notification dated January 23, 1985 granted revised S-10 to the UDCs of the subordinate offices with effect from February 1, 1995. Gopaldas, respondent in the appeal herein who was working as UDC in a subordinate office, filed a writ petition before the Rajasthan High Court seeking a direction to the State Government to grant him the revised S-10 with effect from September 1, 1981 instead of February 1, 1985. The High Court by the judgement dated December 21, 1988 allowed the writ petition and directed the state Government to grant revised S-10 to the UDCs of the subordinate offices with effect from September 1, 1981. This appeal by the state of Rajasthan is against the judgement of the Rajasthan High Court.

2. The main contention of the respondent before the High Court was that after coming into force of the High Court was that after coming into force of the Rules the State Government issued notifications from time to time during the years 1984/ 85 revising pay scales of different cadres in other departments of the State Government whereunder the

revision was made operative with effect from September 1, 1981. The precise contention was that the respondent and other UDCs of subordinate offices were dealt with discriminately in the sense that the pay revision in respect of other departments made during the years 1984/85 was done with effect from September 1, 1981 whereas the UDCs of subordinate offices were given revised S-10 with effect from February 1, 1985. Reliance was placed on fourteen notifications relating to other departments of the state of Rajasthan issued during the years 1984/85 whereunder the revised pay-scales were given with effect from September 1, 1981. The High Court accepted the contention and allowed the writ petition solely on the ground of discrimination.

3. Mr. Aruneshwar Gupta, learned counsel appearing for the State of Rajasthan, has vehemently contented that the High Court fell into patent error in accepting the plea of discrimination for which there was no factual basis. According to him the notifications relied upon by the High Court were issued under different circumstances and were not at all relevant to the face of the present case. Those were the cases where certain categories of employees were not included in the general pay revision provided under the Rules. According to Mr. Gupta the categories of employees, who were left out from the general pay revision under the Rules, were given the revised pay-scales for the first time and such it was necessary to grant them the pay revision with effect from September 1, 1981 to bring them at par with the employees who were governed by the Rules. On the other hand so far as the UDCs of subordinate offices are concerned, they were governed by the Rules and they were given the revised S-9 under the Rules. It

530

was neither a case of left-out category of employees nor the re-revision of the pay scale. What was done by the notification dated January 23, 1985 was that the UDCs of subordinate offices were brought at par with the UDCs of the Secretariate and they were revised S-10 in place of revised S-9 with effect February 1, 1985. We see considerable force in the contention raised by Mr. Gupta. He has taken us through the notifications relied upon by the High Court. It would be useful to briefly deal with the said notifications.

4. Notification dated January 20, 1984 related to the various posts including Junior Analytical Assistant and junior Compounders/Nurses in the Ayurvedic Department. There were two existing pay-scales with reference to the existing pay scale of Rs. 470-830 was revised to Rs. 640-1180; but no revised pay-scale of Rs. 355-570 was prescribed under the Rules. Hence the notification providing for a revised pay scale Rs. 355-570 was issued with effect from September 1, 1981. Similarly there were two pay-scales in the cadre of junior Compounders and Nurses. Revised pay scale was provided under the Rules in respect of one scale, but there was no provision in respect of the second pay-scale. The notification dated January 20, 1984 thus provided revised pay-scales for the left out categories of employees mentioned in the notification relating to the Ayurvedic Department were those who were left out of the general revision of the pay-scales under the Rules and as such it became necessary to make provisions for them by the subsequent notifications and making the operative with effect from September 1, 1981.

5. Notification dated June 7, 1984 relied upon by the High Court related to the State Enterprises Department. There were two existing pay-scales in the cadre of Technicians Grade 11 in the said department. Higher pay scale was for those who were III qualified and lower grade for non III

qualified. The Rules did not make any provision for the lower pay-scale and as such the State Government issued the notification revising the lower pay-scale with effect from September 1, 1981.

6. It is not necessary for us to burden this judgement by giving details of all the notifications relied upon by the High Court. As mentioned above, Mr. Gupta has taken us through the notifications discussed by us. In a nutshell, the employees dealt with by the fourteen notifications, relied upon by the High Court, were left out of the pay-revision and in respect of whom no provision was made under the Rules.

7. The Rules providing for the revised pay-scales were made by the State Government as a result of the recommendation of the pay commission which was headed by Mr. B.P. Beri, a former chief justice of the Rajasthan High Court. In the process of consideration of the recommendations of the Pay Commission, and its implementation, the likelihood of various anomalies and is normally appointed to straighten the discrepancies and deal with the omissions which might come to the notice of the Government after the initial process of pay revision. This was precisely what was done by the State of Rajasthan by issuing the fourteen notifications relating to different departments whereunder the revised pay-scales, which could not be included under the Rules, were provided and enforced. So far as the notification dated February 23, 1985 relating to the

UDCs of subordinate offices is concerned, it was not with a view to remove any anomaly or to make any provision for a category which was left out of the Rules. It was a notification issued as a result of the acceptance of the demand of the UDCs of the subordinate offices for grant of higher pay-scale which was given to their counterparts in the Secretariat. The High Court failed to appreciate that the factual basis for issuing the notification dated January 23, 1985 and the fourteen notifications relied upon by the High Court was entirely different. No fault could be found with the notification dated January 23, 1985 and the State Government and other UDCs of subordinate offices with effect from February 1, 1985.

8. We allow the appeal, set aside the impugned judgement of the High Court and dismiss the writ petition filed by Gopal Das. No costs.

State of Rajasthan v

Nandlal Singh and Ors.

Civil Appeal No. 695 of 1995 (Arising out of SLP(C) No. 7468/93)

ORDER

9. Special leave granted.

10. We have today pronounced judgment in Civil Appeal No. 3528 of 1991 The State of Rajasthan and Anr. v Gopal Das. For the reasons and conclusions reached by us in Gopal Das's case we allow the appeal and set aside the impugned judgment of the High Court.

State of Rajasthan & Ors.

v

Krishan Kant Tiwari

Civil Appeal No. 696 of 1995

(Arising out of SLP(C) No. 13848/94)

ORDER

11. Special leave granted.

12. We have today pronounced judgment in Civil Appeal No. 3528 of 1991 The State of Rajasthan and Anr. v. Gopal Das. For the reasons and conclusions reached by us in Gopal Das's

case, we allow the appeal and set aside the impugned judgment of the High Court.

533

JUDIS