

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 13120/2016

Ramzan S/o Shri Valli Mohammed, Nakas Gate, Nagaur Raj.

----Petitioner

Versus

1. The State Of Rajasthan Through The Secretary,
Department Of Transportation, Govt. Of Raj., Secretariat,
Jaipur.
2. The Commissioner, Department Of Transportation,
Rajasthan, Jaipur.
3. The Additional Transport Commissioner Administration,
Transportation Department Of Rajasthan, Jaipur.
4. The District Transport Officer, Nagaur.

----Respondents

For Petitioner(s) : Mr. Ankur Mathur
Mr. Divya Bapna
Mr. Varsha Paliwal

For Respondent(s) : Ms. Neelam Sharma, AGC

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

07/05/2026

By way of filing the present writ petition, the petitioner has
prayed for the following reliefs:-

*"It is, therefore, most humble prayed that this writ
petition may kindly be allowed with cost and by and
appropriate writ, order or direction, the impugned
proceeding dated 01.08.2016 (Annex.15) deserves to be
quashed and set aside and respondents may kindly be
directed to regularize the services of the petitioner on the
post of Driver from the date of initial appointment and also
directed to give the regular pay scale to the petitioner from
the date of initial appointment with all consequential benefits
and make the payment of arrears."*

2. The petitioner, who was appointed in the respondent
department in the year 1985 as a daily-rated Driver and has been

working against a vacant sanctioned post, has preferred the present writ petition seeking a direction to the respondents to regularize his services and grant consequential benefits.

3. Learned counsel for the petitioner submitted that the petitioner was appointed as a daily-rated Driver vide order dated 08.05.1985 issued by the competent authority of the respondent department. It was further submitted that the services of the petitioner were terminated w.e.f. 07.10.1986 without complying with the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. Upon an industrial dispute being raised by the petitioner, the learned Labour Court, vide award dated 26.10.1989, held the retrenchment of the petitioner to be illegal and in violation of the provisions of the Industrial Disputes Act, 1947. Thereafter, the petitioner was reinstated on the post of Driver w.e.f. 27.02.1993 with back wages and continuity of service in terms of the award passed by the learned Labour Court.

4. Learned counsel for the petitioner further submitted that the petitioner had earlier filed S.B. Civil Writ Petition No.13673/2015 before this Court seeking regularization of his services. This Court, vide order dated 01.12.2015, disposed of the said writ petition with a direction to the respondents to consider and decide the petitioner's claim for regularization within a period of two months, keeping in view the notification dated 08.07.2009 issued by the Government of Rajasthan as well as the judgment of the Hon'ble Supreme Court in the case of **"Secretary, State of Karnataka vs. Uma Devi"** reported in (2006) 4 SCC 1.

5. Learned counsel submitted that in compliance of the order passed by this Court in S.B. Civil Writ Petition No.13673/2015, the

respondent department considered the case of the petitioner for regularization along with two other Class-IV employees of the department, namely Ishwar Singh and Krishna Kumar. Vide order dated 01.08.2016, the services of the said Class-IV employees were regularized from the date of their initial appointment; however, the petitioner was denied regularization on the ground that at the time of his initial appointment on the post of Driver in the year 1985, he did not possess the qualification of passing 8th Class as prescribed under the relevant Service Rules.

6. Learned counsel submitted that the reason assigned in the order dated 01.08.2016 for denying regularization to the petitioner is wholly arbitrary and unsustainable in law, inasmuch as the petitioner had passed the 8th Class examination in the year 1993-94. Thus, at the time when his case was considered for regularization by the respondent department, he possessed the requisite qualification prescribed for the post of Driver under the relevant Service Rules. Learned counsel further submitted that the petitioner has been continuously working against a vacant sanctioned post in the respondent department since the year 1993 without any interruption. It was contended that in a welfare State, denial of regularization for decades despite continuous service amounts to institutional exploitation of a poor employee, which has repeatedly been deprecated by this Court as well as by the Hon'ble Supreme Court in various decisions. On these grounds, learned counsel prayed that the present writ petition be allowed.

7. *Per contra*, learned counsel for the respondents vehemently opposed the submissions advanced on behalf of the petitioner. It was contended that the petitioner had entered service through an

irregular mode of appointment and, therefore, he could not claim regularization on the post of Driver as a matter of right. However, upon being queried by this Court, learned counsel for the respondents was not in a position to dispute the fact that the petitioner has been working against a vacant sanctioned post in the respondent department for the last more than three decades. Learned counsel was also unable to refute that at the time when the petitioner's case was considered for regularization in the year 2016 pursuant to the directions issued by this Court in S.B. Civil Writ Petition No.13673/2015, the petitioner had already acquired the qualification of passing 8th Class and was, therefore, eligible for regular appointment on the post of Driver in the respondent department.

8. Heard.

9. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court finds that in the present case, a low-paid employee has been denied regularization on the post of Driver, which he has been holding for more than three decades, on wholly unjustified and irrelevant grounds. There is no dispute that the petitioner has been discharging duties against a vacant sanctioned post in the respondent department. Though it may be true that at the time of his initial appointment in the year 1985 as a daily-rated Driver by the competent authority, the petitioner did not possess the qualification of passing 8th Class, such appointment can at best be termed irregular and not illegal. Subsequently, the petitioner acquired the requisite qualification and, therefore, the same could not have been made a ground to deny him regularization in the

year 2016 while considering his case pursuant to the directions issued by this Court in S.B. Civil Writ Petition No.13673/2015, particularly when the services of two other Class-IV employees were regularized through the very same order. The action of the respondents in the present case is not only violative of Articles 14, 16 and 21 of the Constitution of India, but also amounts to exploitation of a poor employee at the hands of a mighty employer without any fault attributable to him.

10. In view of the aforesaid discussion, the present writ petition deserves to be and is hereby allowed. The respondents are directed to regularize the services of the petitioner on the post of Driver against a vacant sanctioned post w.e.f. the year 1993-94, i.e., the year in which he acquired the qualification of passing 8th Class. The exercise relating to regularization of the petitioner's services, along with consequential pay fixation and other service benefits, shall be completed within a period of 60 days from the date of receipt of a certified copy of this order.

11. The stay petition and all pending applications, if any, also stand disposed of.

(KULDEEP MATHUR),J