

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 267/2021

Ajeet Kumar S/o Late Shri Mahendra Singh

-----Petitioner

Versus

Rajasthan State Pollution Control Board & Anr.

-----Respondents

Connected With

S.B. Civil Writ Petition No. 5691/2017

Norat Mal Gurjar And Ors

-----Petitioners

Versus

Rajasthan State Pollution Control Board

-----Respondent

For Petitioner(s)	:	Mr. Madhukar Tiwari Mr. Sunil Samdaria in SBCWP No.5691/2017
For Respondent(s)	:	Mr. Ram Singh Bhati

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

02/01/2023

S.B. Civil Writ Petition No. 267/2021:-

1. Having heard learned counsel for both parties at length, it transpired that removal of petitioner w.e.f. 01.04.1999 has been held illegal by the Labour Court vide award dated 26.11.2018. Thereafter on challenge of such award by the respondent Rajasthan State Pollution Control Board (hereinafter referred to 'as the Board') by way of filing SBCWP No.9164/2019, Coordinate Bench of this Court has affirmed the award and directed the Board to reinstate the petitioner treating him in continuity of service and entitled for benefits thereto vide order dated 29.07.2019. The

order dated 29.07.2019 has been affirmed in D.B. CSA (W) No.1489/2019 vide judgment dated 08.01.2020, however the Board instead of treating the petitioner continue in service with effect from the date of his removal i.e. 01.04.1999 as was directed, has passed order dated 29.05.2020 (Annexure-12) extending fresh appointment (provisionally) on the post of Lower Division Clerk (LDC) Grade II. Obviously, the order dated 29.05.2020 may not be treated in conformity to the order dated 29.07.2019 passed by the High Court in SBCWP No.9164/2019.

2. It may be pointed out that initially when the order dated 29.07.2019 was not complied with and the petitioner was not reinstated, he filed contempt petition S.B.Civil Contempt Petition No.1608/2019 wherein from the side of Board, a statement was made that compliance of order dated 29.07.2019 has been made and on such statement, the contempt petition was dismissed vide order dated 05.06.2020.

3. Counsel appearing on behalf of the Board submits that after passing the order dated 29.05.2020, extending fresh appointment (provisional) to the petitioner, two subsequent corrigendum orders have also been passed and he wants to place both these orders on record.

4. Counsel for respondent Board has filed reply to the writ petition and from the reply, there is no sufficient explanation as to why service of petitioner has not been treated continue w.e.f. 01.04.1999, as was directed by this Court in SBCWP No.9164/2019 vide order dated 29.07.2019, further this Court finds that making a wrong statement on behalf of the Board in contempt petition

that the order has been complied with, *pria facie* does not find any corroboration from the record.

5. In these circumstances, this Court deems it just and proper to direct the Chairman of the Board to give his explanation by way of his own affidavit before the next date and in addition the concerned member Secretary of the Board shall remain present in Court on the next date of hearing with explanation for non-compliance of the order dated 29.07.2019.

6. List this petition again on 18.01.2023 in 'supplementary list'.

S.B. Civil Writ Petition No. 5691/2017:-

7. Having heard learned counsel for both parties and from perusal of record, it transpired that vide order dated 05.12.2011 passed in bunch of five writ petitions, main writ petition No.12158/2010 by the Coordinate Bench of this Court, award of the Labour Court in respect of each petitioner for reinstatement with continuity of service has been affirmed. Thereafter, petitioners have been reinstated vide order dated 11.01.2012 (Annexure-7) and their regularization has been made vide order dated 18.03.2015 (Annexure-12A) w.e.f. 11.03.2014.

8. Counsel for petitioners pointed out that since this Court vide order dated 05.12.2011 has affirmed the reinstatement of petitioners with continuity of service, therefore, regularization of petitioners should be made with effect from the date of initial appointment in case of each petitioners respectively.

9. Counsel appearing on behalf of the Board has filed reply to the writ petition, however he seeks time to furnish explanation as to why the regularization of the petitioner has not been made in

consonance with the order dated 05.12.2011. The concerned member Secretary shall furnish his written explanation by way of affidavit on the next date of hearing and shall remain present in person.

10. List on 18.01.2023 in 'supplementary list'.

(SUDESH BANSAL),J

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