

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 9256/2023

1. Union Of India, Through General Manager, North West Railway, Jaipur-302017
2. Divisional Rail Manager, North West Railway, Ajmer 305001
3. Senior Personnel Officer, Head Office, North West Railway, Jaipur-302017
4. Section Engineer (Works), North West Railway, Beawar.

----Petitioners

Versus

Ram Prasad Agarwal S/o Late Shri Ram Gopal Agarwal, Aged About 70 Years, R/o House No. 5/517, Saravagi Mohalla, Beawar (Rajasthan). Retired From The Post Of Beldar On 27.12.2006, While Working In The Office Of Section Engineer (Works), Nwr, Beawar.

----Respondent

For Petitioner(s)	:	Mr. P.C. Sharma, Sr. Standing Counsel assisted by Mr. Raj Singh
For Respondent(s)	:	Mr. Mukesh Kumar Agarwal

HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE RAVI CHIRANIA

Order

25/02/2026

1. This writ petition has been filed by the petitioners (hereinafter to be referred as 'the Department') against the order dated 08.02.2023, passed by the Central Administrative Tribunal, Jaipur Bench, Jaipur (hereinafter to be referred as 'the Tribunal') whereby the original application No.291/2018 filed on behalf of the respondent (hereinafter to be referred as 'the employee') was allowed.

2. Brief facts of the case are that initially the employee was working as Manager in North-Eastern Railway Consumer Cooperative Society, Beawar. The Department issued a circular on 30.05.2000 regarding recruitment in Group-D category in quasi-administrative offices/organisations connected with the Railway. In pursuance to the said circular the employee applied for his absorption and the Department after conducting the screening issued appointment order in favour of the employee on 07.11.2006 for the post of 'Baildar' in the pay-scale of Rs.2550-3200. The employee retired from service after attaining the age of superannuation on 29.02.2008. After ten years of his retirement, the employee filed the original application before the learned Tribunal claiming pensionary benefits. The said original application was allowed by the learned Tribunal vide order dated 08.02.2023. Hence this writ petition has been filed on behalf of the Department challenging the order dated 08.02.2023.

3. Learned counsel for the Department submitted that the learned Tribunal has committed an error in allowing the original application as the employee has only worked for less than two years. Learned counsel relied upon Rule 2 of the Railway Services (Pension) Rules, 1993 (hereinafter to be referred as 'the Pension Rules of 1993') which reads as under:-

"Application- Save as otherwise expressly provided in these rules, these rules shall apply to the following railway servants, namely:-

Provided that nothing contained in these rules shall apply to railway servants appointed on or after, the 1st day of January, 2004.

4. Learned counsel further submits that even the Pension Rules of 1993 are not applicable to the employees appointed on or after 01.01.2004 and since the employee was appointed on regular basis in the year 2006, therefore, he is not entitled for pensionary benefits under the said Rules. Learned counsel further added that the terms and conditions of the appointment of the employee is governed by his appointment order. He further submits that in the appointment order itself it has been mentioned that the selected candidate is governed by the Contributory Provident Fund Scheme (C.P.F. Scheme).

5. Learned counsel further submits that the employee is estopped to raise any grievance with regard to the terms and conditions of the appointment order after accepting the same.

6. Learned counsel for the respondent opposed the submissions made on behalf of the Department. Learned counsel while supporting the judgment passed by the learned Tribunal submitted that the Tribunal has allowed the original application based on the judgment passed by the Hon'ble Supreme Court in the matter of Union of India and Ors. Vs. Munshi Ram reported in 2022 LiveLaw (SC) 891 wherein the Hon'ble Supreme Court has considered the case of granting pension in the favour of the commission vendors and held that their services are at par with casual labours.

7. He further submits that the employee was working on the post of Manager in North Western Railway Consumer Cooperative Society, Beawar and this institution is quasi administrative office/organisation like the commission vendors and prayed for dismissal of the writ petition.

8. We have heard learned counsel for the parties and perused the record.

9. We would like to quote the relevant part of the appointment order dated 07.11.2006, which reads as under:-

“उक्त उम्मीदवार रेल मंत्रालय द्वारा प्रचलित किए गये
पुनःसंरचित परिभाषित अंशदान प्रणाली से शामिल होंगे।”

10. The Hon’ble Supreme Court in the matter of State of Maharashtra and Ors. Vs. Anita and Anr. Reported in (2016) 8 SCC 293 in para No. 15 and 16 held as under:-

"15. The above terms of the agreement further reiterate the stand of the State that the appointments were purely contractual and that the respondents shall not be entitled to claim any right or interest of permanent service in the Government. The appointments of the respondents were made initially for eleven months but were renewed twice and after serving the maximum contractual period, the services of the respondents came to an end and the Government initiated a fresh process of selection. The conditions of the respondents' engagement are governed by the terms of agreement. After having accepted the contractual appointment, the respondents are estopped from challenging the terms of their appointment. Furthermore, the respondents are not precluded from applying for the said posts afresh subject to the satisfaction of other eligibility criteria.

16. The High Court did not keep in view the various clauses in the Government Resolutions dated 21-8-2006 and 15-9-2006 and also the terms of the agreement entered into by the respondents with the Government. Creation of posts was only for administrative purposes for

sanction of the amount towards expenditure incurred but merely because the posts were created, they cannot be held to be permanent in nature. When the Government has taken a policy decision to fill up 471 posts of Legal Advisors, Law Officers and Law Instructors on contractual basis, the Tribunal and the High Court ought not to have interfered with the policy decision to hold that the appointments are permanent in nature.”

11. We have gone through the judgment passed by the Hon'ble Supreme Court in the matter of Union of India and Ors. Vs. Munshi Ram (supra). In our considered view, the said judgment is not applicable in the facts and circumstances of the present case as the appointment of the petitioner was subject to certain conditions incorporated in the appointment order itself by the Department, according to which the services of the employee would be governed by the Contributory Provident Fund Scheme.

12. We have also perused the Pension Rules of 1993 and according to Rule 2, the Pension Rules are not applicable to the employees appointed on or after 01.01.2004 and admittedly the petitioner was appointed in the year 2006, therefore, in our considered view the learned Tribunal has committed an error in granting the benefit of pension in favour of the employee under the Pension Rules of 1993, which are applicable only on the employees of the Department appointed before 01.01.2004.

13. We have also perused the terms and conditions of the appointment order of the petitioner which provide that the employee would be governed by the CPF Scheme and therefore also the learned Tribunal has committed an error in granting the

benefit of pension in favour of the employee contrary to the terms and conditions of his appointment order.

14. In view of the above discussion, this writ petition is allowed and the order passed by the learned Tribunal dated 08.02.2023 is set aside.

15. All pending applications, if any, shall stand disposed of.

(RAVI CHIRANIA),J

(INDERJEET SINGH),J

Dushyant/45