

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

SB Civil Misc. Second Stay Application No.6148/2019
In

S.B. Civil Writ Petition No. 14618/2018

Surendra Kumar Mathur Son Of Shri Ramgopal Mathur & Anr.

----Petitioner

Versus

State Of Rajasthan Through Chief Conservator Of Forest, Forest
Department & Ors.

----Respondent

For Petitioner(s)	:	Mr.Manish Kumar Sharma
For Respondent(s)	:	Mr.Ajay Pratap Singh, Dy.GC Mr.Karan Singh, Deputy Conservator, Forest Department, Dholpur – present in person

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR
Order

11/04/2019

The matter comes up on second stay application filed by the petitioners wherein the petitioner No.1 – Surendra Kumar Mathur has prayed for staying operation of the order dated 19th March, 2019 (Annexure – 6).

The Deputy Conservator of Forest, Dholpur by the said order has shown the petitioner to be appointed against the post of "वृक्षपालक" and his basic pay has been fixed at Rs.31,700/-.

Brief facts of the case are that the petitioners have filed writ petition for implementing the award passed by the Labour Court, Bharatpur on 11th March, 2014 and 22nd April, 2014. The Labour Court, Bharatpur held that the petitioner No.1 was entitled for reinstatement on the post of Store Munshi and were entitled for all the consequential benefits from 1st July, 1991 and 50 per cent backwages from 15th June, 1992 till the award i.e. 11th March,

2014 and the petitioner No.2 was entitled for reinstatement with 50 per cent backwages till award and thereafter, for full salary, etc. was to be given. The award passed by the Labour Court, Bharatpur was challenged by filing the writ petition No.11597/2014 and the said petition was dismissed vide order dated 6th December, 2017. The petitioners made several requests to implement the award but no heed was paid to the said requests and the petitioners, after exhausting the remedy, prayed before this Court that sanction as per Section 29 of the Industrial Disputes Act, 1947 may be granted.

This Court initially issued notices in the writ petition and on 25th July, 2018 and 6th August, 2018 granted time to the Deputy Government Counsel to file reply and to seek instructions as why the award dated 11th March, 2014 was not implemented.

This Court on 18th August, 2018 found that the award was not implemented and as such further seven days' time was granted to implement the award, failing which, the Chief Conservator of Forest was to remain present in the Court.

Learned counsel for the respondents on 29th September, 2018 informed before this Court that reinstatement of the petitioners has been done and amount of Rs.5 lakh has been released and fixation of the salary will be done within two weeks.

Learned counsel for the petitioners, by way of second stay application, has brought on record certain developments and as such he has filed the order dated 20th August, 2018 (Annexure A-1 with second stay application) wherein initially the petitioner Surendra Kumar Mathur has been reinstated as daily wages employee. The respondents thereafter issued an order on 11th October, 2018 (Annexure A-2 with second stay application)

wherein they declared the petitioner "semi-permanent" w.e.f. 1st July, 1991 and he was placed in the pay-scale of Rs.910-1520 on the post of "Store Munshi".

Learned counsel for the petitioners has further placed on record an order dated 7th January, 2019 (Annexure A-3 with second stay application) wherein the earlier order, posting the petitioner as Store Munshi, was withdrawn and the petitioner Surendra Kumar Mathur was posted as "Munshi" as per the affidavit filed by the petitioner on 26th December, 2018.

Learned counsel for the petitioner has placed on record fixation order in Revised Pay-scale Rules, 2008 (Annexure - 4 in second stay application) whereby pay of the petitioner Surendra Kumar Mathur was fixed in Pay Band of Rs.5200-20200 and the respondents further issued an office order dated 11th January, 2019 showing the petitioner Surendra Kumar Mathur to be in the cadre of "Munshi" and even in the Pay Band of Rs.5200-20200 and he was fixed at Rs.38,600/- per month and his next date of increment was 1st July, 2019.

Learned counsel submitted that by issuing the order dated 19th March, 2019, post of the petitioner Surendra Kumar Mathur has been changed from Munshi to "वृक्षपालक" and his fixation has also been done at Rs.31,700/- per month.

Learned counsel submitted that the respondents have acted in vindictive manner and instead of complying with the award and implementing the undertaking given before this Court, they have adopted such method to deprive the petitioner from the benefits, as given by the Labour Court, which has been upheld by this Court.

Learned Dy.Government Counsel Mr.Ajay Pratap Singh, assisted by Mr.Karan Singh, Deputy Conservator, Forest Department, Dholpur, who is present in person, submitted that the post of Store Munshi was erroneously given to the petitioner Surendra Kumar Mathur and even in view of the affidavit given by the petitioner himself, he was posted as Munshi vide order dated 7th January, 2019.

Learned counsel submitted that since letter dated 30th August, 2018 was received from the Joint Secretary, Finance Department (Expenditure – III), the petitioner was required to be initially posted on the post of Munshi and now the petitioner is required to work on the post of "वृक्षपालक" and accordingly, his pay has been fixed on Rs.31,700/-.

This Court finds that the undertaking, which was given before this Court on 29th September, 2018, on behalf of the Chief Conservator Officer of Forest to the extent of reinstating the petitioner and fixation of his salary, has not been adhered to.

This Court finds that the respondents instead of complying with the order and undertaking, have adopted an unusual method to deprive the petitioner from the benefits, which were required to be conferred on the petitioner, as per order of the Labour Court.

Learned counsel for the respondents has also produced note sheet of the Finance Department dated 30th August, 2018 where in the condition No.IV, it has been written that the petitioner would be reinstated back in service on the condition of paying minimum wages.

This Court finds that the said noting by the Finance Department is absolutely against the directions, which have been given by the Labour Court and approved by the High Court.

This Court finds that such kind of noting by any officer of the Finance Department is an attempt to over reach the due process of law and further judicial order is interpreted in wrong manner.

This Court further finds that the Finance Department or Forest Department could not have interfered in the judicial orders, which have been passed by the competent Courts.

This Court accordingly restrains the respondents from taking any work from the petitioner Surendra Kumar Mathur, except on the post of Munshi and further his pay, which has been granted in Pay Band of Rs.5200-20200 will also be protected and he will continue to get the same pay, as has been ordered vide order dated 11th January, 2019.

This Court further deems it proper to stay the effect and operation of the order dated 19th March, 2019 whereby the petitioner Surendra Kumar Mathur has been shown as "वृक्षपालक" and his pay has been fixed at Rs.31,700/-.

This Court further deems it proper to call the Chief Conservator, Forest Department and the Principal Secretary, Finance Department before this Court to explain conduct of the officer, who has passed the order nullifying the order passed by the Labour Court and this Court. Both the officers shall remain present before this Court on the next date of hearing.

List this case on 23rd April, 2019.

(ASHOK KUMAR GAUR),J

RAJASTHAN HIGH COURT



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