

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s).3289 OF 2014  
(Arising out of SLP(C)No.6878 of 2006)

AGRICULTURE MARKETING DIRECTORATE, JAIPUR

Appellant(s)

VERSUS

RAM PRATAP

Respondent(s)

WITH

CIVIL APPEAL NO(s).3291 OF 2014  
(Arising out of SLP(C) NO. 8018 of 2006)

CIVIL APPEAL NO(s).3292 OF 2014  
(Arising out of SLP(C) NO. 6351 of 2006)

CIVIL APPEAL NO(s).3294 OF 2014  
(Arising out of SLP(C) NO. 16291 of 2007)

CIVIL APPEAL NO(s).3295 OF 2014  
(Arising out of SLP(C) NO. 4696 of 2008)

CIVIL APPEAL NO(s).3296 OF 2014  
(Arising out of SLP(C) NO. 3216 of 2008)

CIVIL APPEAL NO(s).3297 OF 2014  
(Arising out of SLP(C) NO. 8693 of 2008)

CIVIL APPEAL NO(s).3298 OF 2014  
(Arising out of SLP(C) NO. 20102 of 2008)

CIVIL APPEAL NO(s).3300 OF 2014  
(Arising out of SLP(C) NO. 47 of 2009)

CIVIL APPEAL NO(s).3301 OF 2014  
(Arising out of SLP(C) NO. 175 of 2009)

CIVIL APPEAL NO(s).3302 OF 2014  
(Arising out of SLP(C) NO. 18376 of 2009)

CIVIL APPEAL NO(s).3303 OF 2014  
(Arising out of SLP(C) NO. 17199 of 2009)

CIVIL APPEAL NO(s).3305 OF 2014

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(Arising out of SLP(C) NO. 19414 of 2009)

CIVIL APPEAL NO(s).3306 OF 2014  
(Arising out of SLP(C) NO. 30558 of 2009)

CIVIL APPEAL NO(s).3307 OF 2014  
(Arising out of SLP(C) NO. 21415 of 2009)

CIVIL APPEAL NO(s).3308 OF 2014  
(Arising out of SLP(C) NO. 14926 of 2011)

CIVIL APPEAL NO(s).3309 OF 2014  
(Arising out of SLP(C) NO. 31895 of 2011)

CIVIL APPEAL NO(s).3310 OF 2014  
(Arising out of SLP(C) NO. 17613 of 2009)

CIVIL APPEAL NO(s).3311 OF 2014  
(Arising out of SLP(C) NO. 34747 of 2012)

CIVIL APPEAL NO(s).3312 OF 2014  
(Arising out of SLP(C) NO. 12328 of 2013)

CIVIL APPEAL NO(s).3313 OF 2014  
(Arising out of SLP(C) NO. 15459 of 2013)

CIVIL APPEAL NO(s).3314 OF 2014  
(Arising out of SLP(C) NO. 22383 of 2013)

O R D E R

Heard.

Leave granted.

The short question that falls for consideration in these appeals is whether the respondents were entitled to claim pension for the period they worked as employees of the Rajasthan State Agriculture Department. A Single bench of the High Court of Rajasthan examined that question in

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W.P.(C) No.1288 of 2003 and W.P.(C) No.1719 of 2001 filed by Rajendra Nath Sharma and another and Ram Pratap respectively. By its judgment and order dated 15th February, 2014 the Single Bench held that inasmuch as Rule 10(2) of the Rajasthan Agriculture Marketing Board Service (Pension) Rules, 1995 ("Pension Rules", for short) denied pension to employees, who had not made contribution towards "provident fund" or "pension reserve" was unreasonable hence violative of Articles 14 and 16 of the Constitution of India. The High Court noticed that the writ petitioners in those cases had been continuously in service, first as employees of the State of Rajasthan and later as employees of the Marketing Board and the Committees under it w.e.f. the date of their first appointment, i.e. 1st May, 1964, 13th November, 1967 and 6th September, 1969 respectively. Pension was despite

long years of service denied to them for two precise reasons. Firstly, because the appointments were not considered to be regular and against substantive vacancies and secondly, because entitlement to pension under Rule

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10(2) of the Pension Rules, mentioned above, was dependent on whether or not any contribution towards provident fund or pension reserve had been made.

The High Court held that since the employees had been working continuously for a long time ever since their first appointment, there was no question of their being treated temporary or ad hoc. The High Court observed that even if the employees were to be treated temporary, they were entitled to claim pension.

As regards contribution towards provident fund or towards pension reserve, the High Court held that the provisions of Rule 10(2) of the Pension Rules was bad inasmuch as it made a legally impermissible classification offensive to Articles 14 and 16 of the Constitution between those who had made such contribution and others who did not make such contribution either because there was no rule requiring such contribution to be made or on account of failure of employer to contribute its share towards provident fund.

The writ petitions were, on the above reasoning, allowed and Rule 10(2) of the Pension

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Rules struck down as unconstitutional with a further declaration that the writ petitioners would be entitled to pension and gratuity counting the service rendered by them w.e.f. their respective dates of first appointment.

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Appeal filed before the Division Bench of the High Court against the judgment and order of the Single Judge, failed and was dismissed by the High Court in terms of its order dated 14th July, 2005. The present appeals by special leave before us assail the correctness of the view taken by the



who had continuously served till the date of superannuation and about the validity of whose appointments no question was ever raised at any stage were not validly or substantively appointed employees.

There is, in our opinion, considerable merit in the submission made by learned Counsel for the respondents. It

is no doubt true that the appellants herein have questioned the correctness of the procedure adopted for making the appointments and asserted that such appointments would take effect only upon regularization but there is nothing on record to suggest that the appointments were, in any way, irregular or in violation of the relevant rules applicable at the time when the same were made.

Similarly there is nothing on record to show that appointments were made against non-existent or temporary posts. Such being the

position the High Court was, in our opinion, correct in

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treating the said appointments to be regular and against sanctioned posts. The requirement of Rule 10(2) of the

Pension Rules, to the extent it requires the appointments to be against sanctioned posts, was therefore fully satisfied.

The only other requirement for payment of pension was the making of contribution towards "provident fund" or "pension reserve". Any debate as to the fulfillment of

that requirement is, in our opinion, rendered academic in the facts and circumstances of the case. We say so for

two reasons. Firstly, because even according to the appellants, pension was payable to the respondents with effect from 1.3.1976 when they started contributing towards provident fund. To that extent there is no difficulty in

recognizing the right of the employees to claim pension.

Secondly because the period between the dates of appointment of the respondents and 1.3.1976 already stands

reckoned for purposes of computation and the amount of pension due for the said period stands paid to the

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respondent-employees. It was fairly conceded by Mr. Calla, learned Senior Counsel and counsel appearing for the remaining respondents that the entire amount due and payable to the respondents by counting their service under the State/Marketing Committees had been computed correctly and fully paid by the appellants. What then remains to be examined is whether the period from the date of appointment till the date they started making contribution to Provident Fund could be taken into consideration even for purposes of computation of pension for future years. The answer to that issue would necessarily depend upon whether the period for which the respondents were in service as employees of the State Agriculture Department but working in the Marketing Committees, was reckonable for purposes of such computation. Mr. Calla drew our attention to Bye-law 5(4) of the Rajasthan State Agricultural Marketing Board (Service) Bye-Laws, 1977 (framed under Section 22-L of the Rajasthan Agricultural Produce Markets Act, 1961) which reads as under:

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"5. METHOD/MANNER FOR OPTION AND ABSORPTION OF EXISTING PERSONS OF AGRICULTURE DEPARTMENT AND OTHER DEPARTMENTS:

(1) to (3)                   xxx       xxx           xxx

(4) In case of persons opting for Board service, their seniority in the Agriculture Department and total emoluments and other benefits shall be safeguarded as they would have continued in the State Government."

It is evident from a careful reading of the above that the emoluments and other benefits admissible to employees of the Agriculture Department opting for service under the Board had to be safeguarded. That was so because

if the employees opted to continue in State service the service benefits of such continuation could have accorded to them. It is not the case of the appellant-Committee that if the respondent-employees who had been appointed in the State Agriculture Department had continued as State Employees they would not have been entitled to the benefit of the service rendered by them from the dates of their respective appointments for computation of their pension. Such being the position we see no rationale behind the

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submission made on behalf of the appellants that the service rendered by the respondents in the State Agriculture Department would not count for purposes of pension. Service conditions and the benefits accruing to the employees having been safeguarded in terms of the bye-laws framed by the Agriculture Marketing Board, such benefits would certainly include the benefit of computation of pension by counting the service rendered by the employees as employees of the State Agriculture Department. Rule 10(2) of the Pension Rules would not in that view disentitle employees who had entered the service of the Board or committees, by absorption from the State Agriculture Department to claim pension. The provisions of Rule 10(2) of the Pension Rules may have to be read down to exclude from its mischief employees whose service condition stood protected in terms of Bye laws and who would consequently be entitled to count their service for purposes of pension and gratuity, from the date they were first appointed in the Agriculture Department.

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In the result, these appeals fail and are hereby dismissed. Since the pensioners have been dragged to this Court, in what we perceive as an unnecessary litigation forced upon them, we direct the appellants to pay to the

respondents Rs.5,000/- (Rupees Five Thousand) as costs in each case.

.....J.  
(T.S. THAKUR)

.....J.  
(C. NAGAPPAN)

NEW DELHI  
DATED 05th March, 2014

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ITEM NO.1 (PH) COURT NO.6 SECTION XV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).6878/2006

(From the judgement and order dated 14/07/2005 in SBCWP No.1719/2001,DBC SA No.243/2005 of The HIGH COURT OF RAJASTHAN AT JODHPUR)

AGRICULTURE MARKETING DIRECTORATE,JAIPUR Petitioner(s)

VERSUS

RAM PRATAP Respondent(s)

(With appln(s) for permission to file rejoinder affidavit,exemption from filing O.T. and office report) (For Final Disposal)

WITH SLP(C) NO. 8018 of 2006  
(With office report)(For Final Disposal)

SLP(C) NO. 6351 of 2006  
(With prayer for interim relief and office report)  
(For Final Disposal)

SLP(C) NO. 16291 of 2007  
(With appln.(s) Directions and De-tagging and prayer for interim relief and office report) (For Final Disposal)

SLP(C) NO. 4696 of 2008  
(With office report)

SLP(C) NO. 3216 of 2008  
(With prayer for interim relief and office report)  
(For Final Disposal)

SLP(C) NO. 8693 of 2008  
(With office report)(For Final Disposal)

SLP(C) NO. 20102 of 2008  
(With prayer for interim relief and office report)  
(For Final Disposal)

SLP(C) NO. 47 of 2009  
(With prayer for interim relief and office report)  
(For Final Disposal)

SLP(C) NO. 175 of 2009



Mr. Dharmendra Kumar Sinha, Adv.

For Respondent(s)

Mr. M.R. Calla, Sr. Adv.  
Ms. Pratiksha Sharma, Adv.  
Mr. Ankit Achaarya, Adv.  
Mr. Gaurav Dave, Adv.  
Ms. Charu Mathur, Adv.  
Mr. P.D. Sharma, Adv.

Mr. Govind Narayan Kaushik, Adv.  
Dr. Kailash Chand, Adv.

Mr. Rajendra Singhvi, Adv.  
Mr. K.K.L. Gautam, Adv.  
Mr. Brij Bhusan, Adv.

Mr. Surya Kant, Adv.  
Mr. Pranav Vyas, Adv.  
MS. Purnima Jauhari, Adv.

Mr. Vijay Kumar, Adv.

Mr. Sushil Kumar Jain, Adv.

Mr. M.A. Chinnasamy, Adv.

Mr. Milind Kumar, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

In terms of the signed order appeals fail and are dismissed:

"In the result, these appeals fail and are hereby dismissed. Since the pensioners have been dragged to this Court, in what we perceive as an unnecessary litigation forced upon them, we direct the appellants to pay to the respondents Rs.5,000/- (Rupees Five Thousand) as costs in each case."

(Mahabir Singh)  
Court Master  
(Signed order is placed on the file)

(Veena Khera)  
Court Master