

A STATE OF RAJASTHAN AND ANR.

v.

GOPALDAS ETC. ETC.

JANUARY 13, 1995

B [KULDIP SINGH AND B.L. HANSARIA, JJ.]

C *Service Law—Rajasthan Civil Servants (Revised Pay Scales) Rules, 1983—Revision of Pay-scale of Upper Division Clerks—Demand of UDCs of subordinate offices for grant of higher pay scale given to UDCs of Secretariat—Allowed by notification dated Jan. 23, 1985—Claim of revised scale w.e.f. 1.9.1981 relying on various notifications relating to other departments—Notifications relied upon issued under different circumstances—Plea of discrimination—Not maintainable.*

D The pay-scales of Government servants in the State of Rajasthan were revised w.e.f. 1.9.1981 by the Rajasthan Civil Servants (Revised Pay Scales) Rules, 1983. The pay scale of UDCs of subordinate offices was revised from Rs. 385-650 to Rs. 520-925. The existing pay scale of Rs. 440-775 of UDCs of Secretariat was revised to that of Rs. 610-1090. The UDCs of subordinate offices claimed that there was no justification for denying them the higher pay scale which was being given to the UDCs of Secretariat. The State Government allowed the claim and granted revision by the notification dated January 23, 1985 w.e.f. 1.2.1985. The respondent, working as UDC in subordinate office filed a writ petition seeking a direction to the State Government to grant him the revised pay scale w.e.f. 1.9.1981 instead of from 1.2.1985. It was alleged that after coming into force of the Rajasthan Civil Servants (Revised Pay Scales) Rules, 1983 various notifications were issued from time to time during the years 1984 - 85 revising pay scales of different cadres in other departments of the State Government whereunder the revision was made operative w.e.f. 1-9-1981. It was contended that the respondent and other UDCs of subordinate offices were dealt with discriminately as they were granted revision w.e.f. 1-2-1985 instead of from 1.9.1981. The High Court allowed the writ petition solely on the ground of discrimination. Hence this appeal.

H The appellants contended that the High Court fell in error in accepting the plea of discrimination for which there was no factual basis. It was

submitted that the notifications relied upon by the High Court were issued under different circumstances and were not relevant to the facts of the present case. According to the appellants those were the cases where certain categories of employees were not included in the general pay revision provided under the rules, and therefore, they were given the revised pay-scales for the first time w.e.f. 1-9-1981 to bring them at par with the employees who were governed by the Rules. While in the present case, the UDCs of subordinate offices were governed by the Rules and they were given the revised pay scale to bring them at par with the UDCs of the Secretariat.

Allowing the appeal, this Court

HELD : The employees dealt with by the fourteen notifications relied upon by the High Court were those who were left out of the pay-revision and in respect of whom no provision was made under the Rajasthan Civil Servants (Revised Pay Scales) Rules, 1983. These notifications were issued to deal with the omissions which came to the notice of the Government after the initial process of pay revision. So far as the notification dated 23.2.1985 relating to the UDCs of subordinate offices was concerned, it was not with a view to remove any anomaly or to make any provision for a category which was left out of the Rules. It was a notification issued as a result of the acceptance of the demand of the UDCs of the subordinate offices for grant of higher pay scales which was given to their counter parts in the Secretariat. The State Government was justified in granting revised pay scale to the respondent and other UDCs of subordinate offices w.e.f. 1.2.1985. [218-F-H, 219-A]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3528 of 1991 etc.

From the Judgment and Order dated 21.12.88 of the Rajasthan High Court in D.B.C.W.P. No. 3116 of 1987.

A. Gupta for the Appellants.

Badridas Sharma and Narottam Vyas, for the Respondents.

The Judgment of the Court was delivered by

KULDIP SINGH, J. The pay-scales of Government servants in the

- A State of Rajasthan were revised with effect from September 1, 1981 by the Rajasthan Civil Servants (Revised Pay Scales) Rules, 1983 (the Rules). The pay-scale of Upper Division Clerks (UDCs) of subordinate offices was revised under the Rules from Rs. 385- 650 called Scale No. 9 (S-9) to Rs. 520-925 (revised S-9). The existing pay-scale of Rs. 440-775 called Scale No. 10 (S-10) in respect of UDCs of Secretariat was revised to that of Rs. 610- 1090 (revised S-10). The UDCs of the subordinate offices represented before the Government that there was no justification for denying them the higher pay-scale which was being given to the UDCs of Secretariat. The State Government accepted the representation and by the notification dated January 23, 1985 granted revised S-10 to the UDCs of the subordinate offices with effect from February 1, 1985. Gopaldas, respondent in the appeal herein, who was working as UDC in a subordinate office, filed a writ petition before the Rajasthan High Court seeking a direction to the State Government to grant him the revised S-10 with effect from September 1, 1981 instead of February 1, 1985. The High Court by the judgment dated December 21, 1988 allowed the writ petition and directed the State Government to grant revised S-10 to the UDCs of the subordinate offices with effect from September 1, 1981. This appeal by the State of Rajasthan is against the judgment of the Rajasthan High Court.

- E The main contention of the respondent before the High Court was that after coming into force of the Rules the State Government issued notifications from time to time during the years 1984/85 revising pay-scales of different cadres in other departments of the State Government whereunder the revision was made operative with effect from September 1, 1981. The precise contention was that the respondent and other UDCs of subordinate offices were dealt with discriminately in the sense that the pay revision in respect of other departments made during the years 1984/85 was done with effect from September 1, 1981 whereas the UDCs of subordinate offices were given revised S-10 with effect from February 1, 1985. Reliance was placed on fourteen notifications relating to other departments of the State of Rajasthan issued during the years 1984/85 whereunder the revised pay-scales were given with effect from September 1, 1981. The High Court accepted the contention and allowed the writ petition solely on the ground of discrimination.

- H Mr. Aruneshwar Gupta, learned counsel appearing for the State of Rajasthan, has vehemently contended that the High Court fell into patent

error in accepting the plea of discrimination for which there was no factual basis. According to him the notifications relied upon by the High Court were issued under different circumstances and were not at all relevant to the facts of the present case. Those were the cases where certain categories of employees were not included in the general pay revision provided under the Rules. According to Mr. Gupta the categories of employees who were left out from the general pay revisions under the Rules, were given the revised pay-scales for the first time and as such it was necessary to grant them the pay revision with effect from September 1, 1981 to bring them at par with the employees who were governed by the Rules. On the other hand so far as the UDCs of subordinate offices are concerned, they were governed by the Rules and they were given the revised S-9 under the Rules. It was neither a case of left-out category of employees nor the re-revision of the pay-scale . What was done by the notification dated January 13, 1985 was that the UDCs of subordinate offices were brought at par with the UDCs of the Secretariat and they were given revised S-10 in place of revised S-9 with effect from February 1, 1985. We see considerable force in the contention raised by Mr. Gupta. He has taken us through the notifications relied upon by the High Court. It would be useful to briefly deal with the said notifications.

Notification dated January 20, 1984 related to the various posts including Junior Analytical Assistant and Junior Compounders/Nurses in the Ayurvedic Department. There were two existing pay-scales in the cadre of Junior Analytical Assistants. Under the Rules, the pay scale of Rs. 470-830 was revised to Rs. 640-1180; but no revised pay scale with reference to the existing pay-scale of Rs. 355-570 was prescribed under the Rules. Hence the notification providing for a revised pay-scale (490-840) to the existing pay-scale Rs. 355-570 was issued with effect from September 1, 1981. Similarly there were two pay-scales in the cadre of Junior Compounders and Nurses. Revised pay-scale was provided under the Rules in respect of one scale, but there was no provision in respect of the second pay-scale. The notification dated January 20, 1984 thus provided revised pay-scales for the left out categories of employees with effect from September 1, 1981. Similarly all other categories of employees mentioned in the notification relating to the Ayurvedic Department were those which were left out of the general revision of the pay-scales under the Rules and as such it became necessary to make provisions for them by the subsequent notifications and making the same operative with effect from September 1,

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Notification dated June 7, 1984 relied upon by the High Court related to the State Enterprises Department. There were two existing pay-scales in the cadre of Technicians Grade II in the said department. Higher pay-scale was for those who were III qualified and lower grade for non-III qualified. The Rules did not make any provisions for the lower pay-scale and as such the State Government issued the notification revising the lower pay-scale with effect from September 1, 1981.

C It is not necessary for us to burden this judgment by giving details of all the notifications relied upon by the High Court. As mentioned above, Mr. Gupta has taken us through the notifications and we are satisfied that all those notifications were issued under similar circumstances as the two notification discussed by us. In a nutshell, the employees dealt with by the fourteen notifications, relied upon by the High Court, were those who were left out of the pay-revision and in respect of whom no provision was made under the Rules.

E The Rules providing for the revised pay-scales were made by the State Government as a result of the recommendation of the Pay Commission which was headed by Mr. B.P. Beri, a former Chief Justice of the Rajasthan High Court. In the process of consideration of the recommendations of the Pay Commission and its implementation, the likelihood of various anomalies and omissions cannot be ruled out. An anomalies committee is normally appointed to straighten the discrepancies and deal with the omissions which might come to the notice of the Government after the initial process of pay revision. This was precisely what was done by the State of Rajasthan by issuing the fourteen notifications relating to different departments whereunder the revised pay-scales, which could not be included under the Rules, were provided and enforced. So far as the notification dated February 23, 1985 relating to the UDCs of subordinate offices is concerned, it was not with a view to remove any anomaly or to make any provision for a category which was left out of the Rules. It was a notification issued as a result of the acceptance of the demand of the UDCs of the subordinate offices for grant of higher pay-scale which was given to their counterparts in the Secretariat. The High Court failed to appreciate that the factual basis for issuing the notification dated January 23, 1985 and the fourteen notifications relied upon by the High Court was entirely different.

No fault could be found with the notification dated January 23, 1985 and the State Government was justified in granting revised S-10 to the respondent and other UDCs of subordinate offices with effect from February 1, 1985. A

We allow the appeal, set aside the impugned judgment of the High Court and dismiss the writ petition filed by Gopaldas. No costs. B

C.A. No. 695 of 1985 (arising out of SLP (C) No. 7468/93)

Special leave granted.

We have today pronounced judgment in Civil Appeal No. 3528 of 1991 - *The State of Rajasthan and Anr. v. Gopaldas*. For the reasons and conclusions reached by us in *Gopaldas's* case, we allowed the appeal and set aside the impugned judgment of the High Court. C

A.G.

Appeal allowed.