



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

S.B. Civil Writ Petition No. 23296/2017

Prahlad Sahai Meena S/o Sh. Surajmal Meena, R/o Village And
Post Atela, Tehsil Viratnagar, Jaipur Rajasthan

-----Petitioner

Versus

1. Chief Executive Officer Admn. Khadi And Village Industries Commission, 3, Irla Road, Park Verli, Mumbai-36.
2. The Director, Kumarappa National Handmade Paper Institute, Ramsinghpura, Shikarpura Road, Sanganer, Jaipur, Rajasthan.

-----Respondents

For Petitioner(s)	:	Mr. CP Sharma with Mr. Saddik Khan
For Respondent(s)	:	Mr. CS Sinha with Mr. Mayank Kamwar Mr. Sunil Kumar Saxena, Astt. Director (KNHP) – present in person Dr. Harshvardha, LDC – present in person

HON'BLE MR. JUSTICE SAMEER JAIN

Judgment

RESERVED ON :: 06/03/2025

PRONOUNCED ON :: 26/03/2025

REPORTABLE :

1. The present petition is filed by the petitioner under Article 226 of the Constitution of India, seeking appropriate writs, orders, or directions for the protection of fundamental rights guaranteed under Articles 14, 16, and 21 of the Constitution of India. The petitioner invokes the jurisdiction of this Court to challenge an order passed on 02.08.2017, by which the regularization of the petitioner on the post of Class-IV employee was denied, notwithstanding specific and categorical directions issued by the



learned Central Government Industrial Tribunal-cum-Labour Court, Jaipur (hereinafter referred to as the "Tribunal"), the Single Bench of this Court, and the Division Bench of this Court, despite the fact that these directions were upheld by the Hon'ble Supreme Court of India.

SUBMISSIONS MADE BY THE LEARNED COUNSEL APPEARING FOR THE PETITIONER:

2. At the outset, learned counsel had contended that the petitioner was initially appointed as a Class IV employee by the respondents on 17.09.1992. However, the services of the petitioner were terminated on 30.07.1994. The petitioner, aggrieved by his termination, approached the learned Tribunal, which, after a prolonged battle of approximately 10 years, vide its award dated 03.06.2004, set aside the termination order and directed the petitioners' reinstatement with continuity in service, along with 25% of back wages. In compliance with this award, the petitioner was allowed to rejoin his duties on 28.12.2005 (Annexure-2).

3. It was further contended that notwithstanding the petitioner's reinstatement, the respondents, with a vindictive attitude, terminated the petitioner's services once again by order dated 13.06.2006. Consequentially, the petitioner challenged this termination, however, the learned Tribunal, vide its award dated 02.05.2012, upheld the termination order. The petitioner being aggrieved of the award dated 02.05.2012 filed a writ petition before this Court bearing no. SBCWP NO. 12345/2012, seeking



reinstatement and quashing of the impugned order and award dated 13.06.2006 and 02.05.2012, respectively.

4. Thereafter, a prolonged battle in the courts, the Court, vide order dated 26.11.2015 passed in SBCWP No. 12345/2012 (supra) directed the respondents to reinstate the petitioner and further to consider his case for regularization, provided he was found eligible in accordance with the applicable rules. However, despite the directions of the Court, the respondents did not comply, prompting the petitioner to file a contempt petition.

5. Sequentially, vide order dated 20.12.2016 (Annexure-4), this Court disposed of the contempt petition, directing the respondents to reinstate the petitioner and allow him to join his duties in compliance with the order dated 26.11.2015. Subsequently, the respondent authority vide order dated 26.12.2016 regularized the petitioner's pay-scale of Rs. 5200-20200 Grade Pay 1800 under the employment of Kumarappa National Handmade Paper Institute (KNHPI), a society registered under the Societies Registration Act, 1860, with effect from the date of the order. However, vide corrigendum dated 06.03.2017, the regularization order dated 26.12.2016 was abruptly withdrawn by the respondents.

6. Ultimately, by an impugned order dated 02.08.2017, the regularization of the petitioner was rejected and denied on the ground that the petitioner did not possess the educational qualifications required as per the rules of the respondent, the Khadi and Village Industries Commission (KVIC), at the time the order was passed. Learned counsel appearing for the petitioner



contended that this denial is arbitrary, discriminatory, and violative of the petitioners' constitutional rights.

7. Consecutively, vide order dated 30.11.2017, the contempt petition filed by the petitioner was disposed of by this Court, granting liberty to the petitioner to avail of appropriate legal remedies. After the disposal of the contempt petition, the petitioner was not allowed to mark his attendance, thereby further exacerbating his grievance.

8. It was further contended that despite compliance with earlier orders, the respondents have failed to extend similar treatment to the petitioner as was given to similarly situated persons, who possess equal qualifications and were regularized much earlier. Moreover, the denial of regularization, despite directions from this Court and the learned Tribunal, constitutes a clear violation of the petitioners' fundamental rights, including the right to equality under Article 14, the right to equal treatment in public employment under Article 16, and the right to livelihood under Article 21 of the Constitution of India. In support of the contentions made insofar, learned counsel had placed reliance upon a catena of judgments passed by the Hon'ble Supreme Court, a few amongst others were **Jaggo Vs. Union of India & Ors.; 2024 SC (OnLine) (SC) 12494**, whereby the Hon'ble Court had reiterated the importance of regularization and its applicability to individuals who are working in similar positions for extended periods, thereby affirming the principles of equality and fairness in public employment, **State of Rajasthan Vs. Smt. Naurati Devi & Ors.; DB Special Appeal (Writ) No.243/1997, State of**



U.P. Vs. Putti Lal; 2006(9) SCC 337, Board of Secondary Education Vs. Mukesh Kumar; DB Civil Special Appeal (Writ) No.1223/2022, decided on 10th April, 2023 and **Board of Secondary Education Vs. Mukesh Kumar; Special Leave to Appeal (C) No.14894/2023**, decided on 27th January, 2023.

9. In summation of the aforementioned learned counsel had averred that the respondent's actions, including the withdrawal of the regularization order and the arbitrary rejection of the petitioner's claim for regularization, are in violation of the directions issued by this Court and the Tribunal, and constitute a violation of his constitutional rights.

SUBMISSIONS MADE BY THE LEARNED COUNSEL REPRESENTING THE RESPONDENTS:

10. *Per contra*, learned counsel for the respondents, while not disputing the facts as laid out by the counsel representing the petitioner, have raised certain submissions in defense of the impugned actions.

10.1 Primarily, it was contended that the petitioner has a history of bad and poor behavior, which is evidenced by the apology letter submitted by the petitioner in the past. It was asserted that this poor conduct forms the basis of their reservations about the petitioner's suitability for regularization.

10.2 Secondly, it was argued that the petitioner was initially appointed on a project basis, and this appointment was made for specific work related to a particular project. Learned counsel had further submitted that, given the nature of the petitioner's appointment, he cannot be considered for



regularization under the general terms applicable to permanent employees.

11. Additionally, learned counsel had contended that the directions given by the Courts in the previous litigation, which mandated the consideration of the petitioner's case for regularization, should not be construed as binding directions for regularization. Nevertheless, the examples and references provided by the petitioner regarding similarly situated persons who were regularized, cannot be directly applied to the present case, as those employees belonged to different categories, such as drivers, and worked in different fields. Therefore, the comparison so drawn the petitioner, is not tenable.

12. Furthermore, learned counsel had emphasized that according to the rules governing the respondent-department, the minimum educational qualification for appointment to the post of Class IV employee is at-least VIII Class, however, the said requirement is not fulfilled by the petitioner. Therefore, the same constitutes a valid ground for denying regularization to the petitioner. However, it was suggested and assured that the petitioner's case for regularization can be considered by the respondents in the next meeting of the Board. Especially when the petitioner continues to be employed as a daily wager is paid the due amounts for his work in that capacity.

DISCUSSION AND FINDINGS:

13. Having heard the rival arguments made by the learned counsel representing both the parties, upon an assiduous scanning



of the record, considering the aforementioned facts and circumstances of the case, and taking note of the judgments cited at the Bar, this Court at this nascent juncture, deems it appropriate to jot down indubitable facts:-

13.1 That the petitioner was initially on 17.09.1992 was appointed as Class IV employee in the office of respondent no. 2.

13.2 That in the first instance the service of the petitioner was ordered to be terminated w.e.f. 30.07.1994.

13.3 That the history of service of the petitioner with the respondents has a checkered history and a series of litigations, issued by either of the parties; for the sake of convenience, the said timeline is precisely noted herein below:

13.3.1 That when the petitioner was initially terminated from service, after a prolonged litigation of approximately ten years, and upon judicial intervention by the learned Tribunal, the respondents had reinstated the petitioner, and have even released 25% of back wages payable to the petitioner (award dated 03.06.2004 – Annexure- 1).

13.3.2 That on a subsequent occasion, the respondents have again for no considerable rhyme and reason terminated the service of the petitioner. Thence, vide order dated 26.11.2015 the Co-ordinate Bench of this Court had directed the respondents to consider the plea of the petitioner for regularization in service. The relevant extract from the erstwhile round of litigation, which was adjudicated vide order dated 26.11.2015 is reproduced herein below:

"25. By now, it is a well settled law that even executive authorities while taking administrative action which has the consequences of restriction on inherent



fundamental rights of citizens are obliged to ensure that justice is not only done but it must appear to have been done. The respondent-employer, as a model employer, has a duty to proceed while dealing with its employees, in the manner which is free from appearance of arbitrariness, unreasonableness and/or unfairness. The respondent-employer, as a model employer, is required to act in a manner which should be impartial and unbiased without any ill-will or malafide patent or latent to meet the requirements of natural justice.

26. *For the reasons and discussions hereinabove, the writ petition succeeds and is hereby allowed. The impugned award dated 2nd May, 2012, is hereby quashed and set aside. The termination of the services of the petitioner vide order dated 13th June, 2006, is held to be illegal and invalid.*

27. *The respondents are directed to reinstate the petitioner and consider his case for regularization, if he is otherwise eligible. Compliance must be ensured within two months from the date of receipt of a certified copy of this order is furnished to the respondents."*

13.3.3 That the judgment debtors assailed the said judgment before the Division Bench of the Court. Wherein, the Division Bench vide judgment dated 12.08.2016 had dismissed the said petition, and the stand of the petitioner herein was upheld. The relevant extract from the afore-stated judgment is reproduced herein below:

"Although, submissions have been made by the counsel for the appellant to controvert but we do not find any tangible evidence in rebuttal either filed by the employer before the Tribunal or before the Id. Single Judge and thus, finding that both the two incumbents namely Ramprasad & Narendra Kumar were appointed initially in the year 1995 on daily wages & later on regularized, stands established on sufficiency of the evidence available on record and we find no error in the finding which has been recorded by the Id. Single Judge under order impugned."

13.3.4 That against the judgment dated 12.08.2016 an SLP was preferred by the judgment debtors, which was again



dismissed, by the order dated 05.12.2016; the relevant extract from which is reiterated herein below:

*"Delay condoned.
The Special Leave Petition is dismissed."*

13.3.5 That the directions encapsulated in judgment dated 26.11.2015 were not adhered to by the respondents, and being aggrieved of the same, the petitioner had filed a contempt petition bearing no. 391/2016, however, during the pendency of the said contempt petition, the respondents had passed order dated 20.12.2016 whereby, the petitioner was directed to join his service and vide order dated 26.12.2016 the service of the petitioner was regularized. However, vide the corrigendum dated 06.03.2017 the erstwhile order dated 26.12.2016 was ordered to be withdrawn.

14. Considering the observations noted herein above, upon an assiduous scanning of the records and taking note of the rival contentions made by the counsel representing the parties, it is opined that the respondents have failed to provide any justifiable reason for the non-compliance with the directions passed by the Courts, including the Tribunal's orders. The defense raised by the respondents, which includes references to the petitioner's past conduct and the nature of his initial appointment, does not provide adequate legal justification for the denial of regularization, especially when viewed in light of the long duration of service rendered by the petitioner and the legal directions issued by judicial authorities. It is deduced that the withdrawal was purportedly based on the ground that the petitioner did not possess the educational qualification as stipulated by the Khadi



and Village Industries Commission (KVIC), a qualification later adopted by the Khadi and Village Industries Public Health Institute (KMPHI). Nevertheless, the competent authority, in compliance with the erstwhile directions passed by the courts, recognized the petitioner's eligibility for regularization in its order dated 26th December, 2016 (Annexure – 5).

15. Upon a perusal of the impugned order, the Court finds that the withdrawal of regularization constitutes a direct contradiction to the binding directions passed by the Apex Court, the Division Bench of this Court, and the Coordinate Bench. It is abundantly clear from the judgments of the Apex Court and the Division Bench that the issue of the petitioner's qualification was not raised during the first round of litigation. The failure to raise this issue during the earlier stages of litigation renders the subsequent invocation of the qualification requirements as an afterthought, unworthy of judicial consideration at this stage.

16. Moreover, it is an established position of law that when the terms of employment, including qualifications, are decided and applied to similarly situated persons at the time of joining, such qualifications must be applied in a consistent and non-retroactive manner. The respondents are bound to follow the directions issued by the Courts, and the adoption of any new qualification requirements post *facto* cannot be a valid ground to deprive the petitioner of his regularization.

17. Furthermore, the Division Bench of this Court, in its judgment dated 12.08.2016, categorically recognized that similarly situated persons, possessing equivalent qualifications,



were considered for the position of Class IV employees. The Court highlighted the immense hardships faced by an employee who was forced to contest against their employer for approximately over thirty years, a situation that was exacerbated by the unjust treatment of the claims.

18. Consecutively, it is noted that the issue under consideration revolves around the proper interpretation of judicial directions and their execution, particularly with respect to the regularization of the petitioner's service. The case presents a situation where the use of the term "consideration" instead of "directions" led to the dismissal of a contempt petition, though with liberty granted to file a fresh petition. However, this Court is of the opinion that despite the lapse in terminology, the rights of the petitioner are well-established based on prior judicial rulings.

19. The petitioner was serving the respondents since 1992, and his claim for regularization is grounded in the fact that similarly situated persons, possessing equivalent qualifications, were duly considered and regularized in accordance with the applicable rules. The Apex Court, in its judgment, has settled the facts against the respondents, determining that the petitioner's service record and qualifications should be assessed in light of the relevant legal principles as of the time when the petitioner originally joined service.

20. The petitioner's case is further supported by the judgment in **Jaggo (supra)**, wherein the Apex Court emphasized that the educational qualifications relevant at the time of joining must be applied in the case of similarly situated employees. This Court also



noted that when persons in similar situations are being treated differently, it constitutes a violation of the principles of equality under Article 14 of the Constitution of India. The relevant extract from the same is reiterated herein below:



"17. As for the argument relating to educational qualifications, we find it untenable in the present context. The nature of duties the appellants performed-cleaning, sweeping, dusting, and gardening-does not inherently mandate formal educational prerequisites. It would be unjust to rely on educational criteria that were never central to their engagement or the performance of their duties for decades. Moreover, the respondents themselves have, by their conduct, shown that such criteria were not strictly enforced in other cases of regularization. The appellant's long-standing satisfactory performance itself attests to their capability to discharge there functions, making rigid insistence on formal educational requirements an unreasonable hurdle."

21. Withal, in **State of Rajasthan through Secretary, Department of Medical & Health & Ors. Vs. Smt. Chhoti Devi & Ors.; 2018(1) WLC (Raj.) UC 208** also, the Court under identical factual narrative vis-à-vis the employee working at a low pay scale has opined as follows:

"10. This Court in the case of State of Rajasthan Vs. Smt. Barji Devi & Ors. has observed that non possession of educational qualification for holding post in the cadre of class – IV, will not come in the way of seeking regularization of the services. The Court found that no error has been committed by the Tribunal which may call for interference by this Court. The relevant para of the order is reproduced as hereunder :-

"It is relevant to observe that the learned Tribunal has not independently examined the merits but has passed the judgment on the basis of decision of the Division Bench of this Court in Smt. Norati Devi Vs. State (CWP-1469/1999) decided on 26/09/1996); that apart, Counsel for respondent has further brought to the notice that the controversy



raised herein has further been examined by Division Bench in Special Appeal (Writ) No. 675/2002 vide judgment dt. 13/07/2004 and observed ad infra:

"The respondent No. 1 indisputably was working on the post of Class IV since 1987. She was not regularized in the service, though her juniors were regularized. Ground was given for this that she does not possess the qualification of passing Class V examination. She approached to the Rajasthan Civil Services Appellate Tribunal and the learned Tribunal took a very pragmatic and justice oriented approach in the matter. It is not in dispute that power vests in the State of Government to relax the education qualification prescribed for appointment on the post of Class-IV."

In the light of the judgment (Supra), merely because incumbent does not possess qualification for holding post in the cadre of Class-IV, it will not come in the way for seeking regularization of the Services. In view of what has been observed by Division Bench (supra), this Court does not find manifest error being committed by learned Tribunal which may call for interference in the judgment impugned herein.

Consequently, writ petition fails and is hereby dismissed. Interim order dt. 187/12/2000 confirmed vide order dt. 12/07/2001 stands vacated. No costs.

15. This Court while passing order in the case of State of Rajasthan Vs. Smt. Barji Devi & Ors., also granted similar relief and has directed that such services of employees be regularized in their favour."

CONCLUSION AND DIRECTIONS:

22. In view of the above legal principles and facts, it is clear that the petitioner is entitled to the same treatment as other similarly situated employees. The impugned order withdrawing regularization on the grounds of educational qualifications, after the Courts had passed categorical directions in the petitioner's



favor, is not only legally untenable but also amounts to disregard of judicial orders.

23. Ergo, this Court, relying upon the judgments referred to above, grants the following relief:

23.1 The impugned order dated 02.08.2017, withdrawing the petitioner's regularization is hereby quashed and set aside.

23.2 The respondents are directed to regularize the petitioner's services in the same manner as similarly situated persons, as referenced in the judgment of the Division Bench (dated 12.08.2016) in the case of Ramprasad and Narendra Kumar.

23.3 The date of regularization of the similarly situated employees shall be treated as the date of regularization for the petitioner, with all consequential benefits accruing from that date.

23.4 A cost of Rs. 2,00,000/- (Rupees Two Lakh only) is imposed on the respondent society or its officer(s) responsible for the litigation and the disregard of judicial orders.

23.5 In the event that the respondents fail to comply with the directions above within a period of three months from the date of passing of this judgment, the amount of Rs. 2,00,000/- shall be recovered along with interest at the rate of 6% per annum from the concerned officers responsible for non-compliance.

24. In light of the above reasoning and findings, the present writ petition is hereby allowed in accordance with the directions set forth hereinabove. The Court, having considered the merits of the case, and after a detailed examination of the relevant facts, legal principles, and judicial precedents, grants the relief sought by the



petitioner. The respondents are therefore directed to comply with the specific orders and directions laid down in this judgment within the stipulated time frame. It is further ordered that the respondents shall take all necessary steps to implement the directions in letter and spirit, ensuring that the petitioner receives the benefits to which he is entitled, as specified herein; the respondents are required to carry out the compliance of the directions within the prescribed period, failing which, appropriate legal consequences, including recovery of costs along with the interest as stated above and imposition of penalties, may follow as per the terms specified in the judgment.

25. Pending applications, if any, are hereby disposed of in view of the order passed in this writ petition.

(SAMEER JAIN),J

Preeti Asopa