



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



D.B. Civil Special Appeal (Writ) No.599/2023

1. The State of Rajasthan through Principal Secretary, Higher Education Department, Secretariat, Rajasthan, Jaipur.
2. The Commissioner/Director, College Education, Rajasthan, Jaipur.

-----Appellants

Versus

1. Kamal Singh Choudhary S/o Shri Hukam Singh Choudhary, Aged About 70 Years, R/o V&P, Jat Behror, District Alwar Raj. retired from the post of P.T.I. from G.D. Govt. Girls College, Alwar.
2. Director, Directorate of Pension And Pensioner's Welfare Department, Rajasthan, Jaipur.

-----Respondents

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For Appellant(s) : Mr. Sachin Singh Rathore for  
Mr. S.S. Naruka, AAG

For Respondent(s) : Mr. Tarun Choudhary for  
Mr. Hanuman Choudhary

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**HON'BLE MR. JUSTICE AVNEESH JHINGAN**  
**HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU**  
**Judgment**

**25/09/2025**

**AVNEESH JHINGAN,J:**

1. This intra court appeal is filed aggrieved of order dated 14.02.2023 passed by learned Single Judge in S.B. Civil Writ Petition No.7824/2016.
2. The brief facts are that on 23.11.1985, respondent No.1 (hereinafter referred to as 'respondent') was appointed on the post of Physical Education Teacher in College Education on temporary basis. The services were regularized on 01.07.1992. Raising grievance that the service of the respondent prior to year



1992 was not being considered by the appellant for granting benefits of senior/selection scale, the respondent filed S.B. Civil Writ Petition No.5458/2004 which was allowed on 18.10.2013. The operational part of the order is reproduced below:-

*"It is not in dispute that petitioner was initially appointed on temporary basis but perusal of order at Annex.1 reveals it to be in regular pay scale, which was not at par with the UGC. The controversy as to which pay scale, the PTIs are entitled to, has already been settled by this Court holding that pay scale prescribed by UGC would be admissible since 01.04.1980. The petitioner herein was appointed on 23.11.1985, thus should have been allowed the pay scale prescribed by UGC since initial appointment. The pay scale prescribed by UGC has been allowed to the petitioner but it is since 01.07.1992 but in view of judgment in the case of Laxmi Narain Sharma & ors. (supra) and even Memorandum at Annex.9, the petitioner is entitled for pay scale prescribed by UGC since the date of initial appointment, i.e., 23.11.1985 as temporary appointment was in the pay scale and not on fixed amount.*

*The writ petition is accordingly allowed. The respondents are directed to fix the petitioner in pay scale prescribed by UGC for the post in question. It should be from the date of initial appointment, which was in regular pay scale. The benefit may accordingly be extended with the payment of arrears within a period of three months from the date of receipt of copy*





*of this order. The respondents would further be expected to grant benefit of senior and selection scale by counting entire length of service in view of judgment of State of Rajasthan & Anr. Vs. Dr. Ram Krishna Agarwal & Anr. in DB Civil Special Appeal (W) No.999 of 2001.*

*The direction for cost and interest has been sought, however, I am not inclined to grant it in view of the fact that petitioner has been allowed pay scale prescribed by UGC since 01.07.1992 though during pendency of writ petition. The position of fact could have been different if such benefit would not have been allowed even during pendency of writ petition, though direction has been given to allow said pay scale since the date of initial appointment but it cannot be said that respondents have not acted bonafidely so as to direct them to pay interest on the arrears and cost."*

3. The State was unsuccessful in intra court appeal filed against the order dated 18.10.2013. No Special Leave Petition was filed and the order attained finality inter se the parties. The appellant failed to give pay-scale prescribed by UGC from the initial date of appointment i.e. 23.11.1985, forcing the respondent to approach this court by filing SBCWP No.7824/2016. The writ petition was allowed vide impugned order. Learned Single Judge noted that the only issue for adjudication in writ whether the petitioner is entitled to get benefit of pay-scale prescribed by UGC since the initial date of appointment on temporary basis, was answered in favour of the respondent in earlier round. Considering that this issue was



decided in the earlier writ petition filed by the respondent, allowed on 18.10.2013 and it was held that the respondent was entitled to pay-scale prescribed by UGC w.e.f. 23.11.1985. The writ petition was disposed of directing the respondent to grant benefit of pay-scale prescribed by UGC w.e.f. 23.11.1985. Hence, the present appeal.

4. Learned counsel for the appellant submits that the issue that respondent was entitled to pay-scale prescribed by UGC w.e.f. 23.11.1985 was wrongly decided in impugned order by relying upon order dated 18.10.2013. Argument is that while allowing earlier writ vide order dated 18.10.2013, the circular of the department and break in service were not considered.

5. Learned counsel for the respondent submits that inspite of succeeding in the year 2013, the respondents have not given effect to the decision of this court for last twelve years.

6. It is not disputed in the intra court appeal that the issue that petitioner is entitled to pay-scale prescribed by UGC since 23.11.1985, was decided by this court on 18.10.2013 in SBCWP No.5458/2004. It is an admitted case that this order has attained finality inter se the parties.

7. The contention now raised to challenge the order of 18.10.2013 in intra court appeal filed against the order dated 14.02.2023 cannot be permitted. The order of 18.10.2013 was challenged in intra court appeal and the appeal was dismissed on 18.01.2016. The appellant accepted that order, yet the order was not complied with.

8. There is no factual or legal error in the impugned order for interference in intra court appeal. The issue involved in the writ





petition and now in the intra court appeal was decided by this court in the case of the respondent in October, 2013. The issue is being raked up again to challenge the order which had attained finality.

9. The appeal is dismissed with cost of Rs.10,000/- to be paid to the respondent.

(BALJINDER SINGH SANDHU),J

(AVNEESH JHINGAN),J

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