

**HIGH COURT OF JAMMU AND KASHMIR AT JAMMU**

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**SWP No.2678/2001**

**Date of Decision: 07.07.2010**

**Hans Raj**

**vs**

**State of J&K & ors.**

**Coram:**

**Mr. Justice J.P.Singh, Judge.**

**Appearing Counsel:**

For the Petitioner(s) : Mrs. Surinder Kour, Advocate.

For the Respondent(s) : Mr. Gagan Basotra, AAG.

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| i)  | Whether approved for reporting<br>in Press/Journal/Media | : | <b>Yes</b> |
| ii) | Whether to be reported<br>in Digest/Journal              | : | <b>Yes</b> |

The petitioner-Hans Raj, a Teacher in the Education Department of the State Government, was deputed to Navodaya Vidyalaya Samiti as T.G.T. (Hindi) Kot-Ranka-Rajouri for a period of two years. The period of his deputation was extended by another one year. The Navodaya Vidyalaya Samiti had placed the petitioner in the Master's Grade during his stay with it. His efforts for absorption in Navodaya Vidyalaya Samiti did not, however, fructify and he was repatriated to his parent department in the Teacher's Grade in which he was serving at the time of his deputation.

He has filed this Writ Petition seeking issuance of directions to the State-respondents to place him in the

Pay Scale of Rs.1760-3200, i.e., the Master's Grade in which he had been serving in the Navodaya Vidyalaya Samiti, saying that Ram Dhan and Makdhami, the employees of the Forest Department, situated similarly with him, had been allowed similar benefit of being placed in the higher grade on repatriation to their Parent Department, by the State Government.

Contesting the Writ Petition, the State-respondents deny the petitioner's entitlement to the Pay Scale of Rs.1760-3200, saying that he was entitled to the Pay Scale which the post against which he stood appointed carried, and, unless promoted to, he was not entitled to the Master's Grade. The petitioner is, however, stated to have been promoted to the Master's Grade, on his own term and his Seniority maintained as such in the Education Department, during the pendency of the Writ Petition.

I have heard learned counsel for the parties and considered their submissions.

Petitioner's plea that he was entitled to the Pay Scale, which he was getting during the period of his deputation with the Borrowing Organization, is

misconceived, in that, his entitlement to salary in the Parent Department, is governed by the Rules of his Service, which permit him salary in the Pay Scale of a Teacher, and not by the Rules prevalent in the Borrowing Organization. The period spent by him on deputation with the Borrowing Organization, at a higher Pay Scale, would not vest any additional right in him to claim higher Pay Scale in his Parent Department.

*Bhadei Rai Vs Union of India and ors. reported as AIR 2005 SC 2404*, referred to by the petitioner's learned counsel pertaining to the protection of Pay on account of long service on the promoted post, may not be of any assistance to the petitioner, as besides being rendered in the facts and circumstances of the case, it has no application to the present case where the question involved is entirely different and pertains to the period spent on deputation and not on promotional post.

In this view of the matter, the petitioner's plea of his entitlement to the Master Pay Scale in the Parent Department, which he had been getting during the period of his deputation with the Borrowing Organization, therefore, fails and is, accordingly,

rejected.

Petitioner having been promoted to the Master's Grade during the pendency of the Petition in his Parent Department and his Seniority accordingly settled, this Writ Petition, which otherwise lacks substance, does not survive for any adjudication.

This Writ Petition is, accordingly, dismissed.

**(J.P. SINGH)**  
**JUDGE**

**JAMMU**  
**07.07.2010**  
Ram Murti