

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAI PUR

ORDER  
IN  
S. B. Civil Writ Petition No. 3909/2010

Jagdish Prasad Sharma Vs. State  
of Rajasthan and Others

Date of Order :: 31. 03. 2010

Present  
Hon'ble Mr. Justice Mohammad Rafiq

Shri H. S. Khandelwal for  
Shri M. M. Ranjan, Counsel for petitioner  
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By the Court:-

Contention of learned counsel for petitioner is that petitioner even if he was allowed to serve beyond date of his retirement on account of confusion on the part of respondents from 01. 02. 1998 to 31. 07. 1999 he was required to pay entire salary for that period and respondents could not treat said period as spent on reappointment. Learned counsel cited a judgment of the Supreme Court in *State of Bihar and Others Vs. Pandey Jagdishwar Prasad* - (2009) 3 SCC 117, and argued that the Tribunal was wholly unjustified in rejected his appeal.

The cited judgment of the Supreme Court also held that if, on account of certain confusion with regard to date of birth, an

employee is allowed to serve for more period than due, his retiral benefits should be computed as per actual date of birth but the salary if already paid may not be recovered.

In the present case no recovery has been made by respondents from petitioner. What is contended is that instead of paying the salary of reappointment, respondents should be required to pay to petitioner full salary at the same rate at which he was being paid when he was in service, along-with interest thereon. Such a plea cannot be accepted because admittedly petitioner had become due to retire from service on 31.01.1998. I find no error in impugned order passed by the Tribunal.

The writ petition is dismissed.

(Mohammad Rafiq) J.