

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

S.B. Civil Writ Petition No. 12397 / 2017

Amrit Lal S/o Dhyala Ram, by Caste Jat, Aged About 52 Years, R/o Pipal Ka Bas, Post Sonasar, Tehsil Malsisar, District Jhunjhunu, Rajasthan, Presently Posted At Govt. Secondary School Kalwa, Panchayat Samiti Buhana, District Jhunjhunu, Rajasthan.

----Petitioner

Versus

1. State of Rajasthan Through Its Secretary, Department of Secondary Education, Government Secretariat, Rajasthan, Jaipur.
2. The Director, Secondary Education, Rajasthan, Bikaner.
3. The Director, Elementary Education, Rajasthan, Bikaner.
4. The District Education Officer (secondary Education), Jhunjhunu, Rajasthan.
5. The District Education Officer (elementary Education), Jhunjhunu, Rajasthan.

----Respondents

For Petitioner(s) : Mr. Intjar Ali

For Respondent(s) : Mr. Sanjay Kumar Sharma, Govt. Counsel

HON'BLE MR. JUSTICE VEERENDR SINGH SIRADHANA

Order

31/07/2017

Learned counsel for the parties are not in dispute that identical controversy has already been raised, considered and adjudicated upon by a Coordinate Bench of this Court in a batch of writ applications lead case being SBCWP No.11136/2017: Prem Bai Meena Versus State of Rajasthan & Ors., vide order dated 24th July, 2017, observing thus:

"Learned counsel, Mr. Sanjay Kumar Sharma, Government Counsel, appearing on behalf of the

State-respondents submits that controversy raised in the instant batch of writ applications stands resolved in view of the adjudication by a Coordinate Bench of this Court in a batch writ applications lead case being No.10232/2016: Smt. Rooplata Meena Versus State of Rajasthan & Ors., decided on 19th August, 2016, observing thus:

"I have considered the rival submissions made by learned counsel for the parties and perused the record. After considering various grievances raised by the petitioners and narrated above, it can be redressed, if representation is given by the petitioners within ten days from today and exercise is thereupon undertaken by the department in the following manner for which their exist agreement between the parties:

(1) The petitioners would make a representation to the respondents raising their grievances against the order of posting. It would be by narrating ground for challenge of the posting. The representation aforesaid would be submitted within a period of ten days from today along with certified copy of this order. The respondent department i.e. Secondary as well as Elementary Education 11 would immediately notify the vacant posts in different schools and out of which, in which school they are in need of a Teacher. If a vacant post exists in the school, but looking to the strength of the students, the Teacher may not be required then while notifying the vacant post in the school, it would be made clear by the department that against any post or posts, they do not need additional hands. It is agreed that if the department finds that additional hands are not required in a particular school or against a post, then such posts would

not be filled by transfer for a period of three months.

(2) The Teachers of Level II posted against the post of Level-I would be transferred back to their post immediately after getting the new recruits or on availability of the Teacher (Level-I). The said exercise would be undertaken vice-versa i.e. for transfer of Teachers Gr.III appointed on Level-I but transferred against the post of Level-II, if any.

(3) The department would post the Teacher against the post meant for specialised subject if their recruitment was in a particular subject or they are teaching the subject for years together. The Teacher of subject would be transferred to a post of the said subject only so that students may not suffer.

(4) While undertaking the exercise, the department may take into consideration the guidelines issued on 8th May, 2016 and 9th May, 2016. While applying the said guidelines, the effort would be to redress the grievances of the petitioners.

(5) The petitioners would be at liberty to indicate their choice of school other than it is notified by the respondents.

(6) If mutual transfer is sought then it would be dealt with by the department. The request can be accepted because in the case of mutual transfer, it would not affect any one which includes even the department. The prayer for mutual transfer would be between the employees of same level of the post and set up apart from subject, if any.

(7) If the petitioners have already joined the post

in pursuance of the orders under challenge, then their joining would not be taken adverse for disposal of the representation and carrying out the directions given.

(8) Apart from the issues referred above, if any other issue exists to seek change of the place of transfer, the petitioners would be at liberty to make a representation showing the ground for it like posting of husband and wife at one place, illness, disability, retirement in few months or any such similar ground.

(9) It is agreed that the representation would be considered by the department within a period of two months with necessary order. The writ petitions stand disposed of with the aforesaid. A copy of this order be placed in each connected file."

It is further contended that in view of the directions made by the Coordinate bench in the case of Smt. Rooplata Meena (supra) ; grievances of the petitioners would be considered on the representation already submitted and/or representation submitted within one weeks hereinafter.

The proposal made is acceptable to the counsel for the petitioners.

Accordingly, the instant batch of writ applications is disposed off with the direction to the State-respondents to consider various grievances raised by the petitioners in their representation already filed/may be filed within the period aforesaid; in the backdrop of the terms and conditions, which have been referred to and agreed upon in the case of Smt. Rooplata Meena (supra), which are reiterated.

In view of the above, the State-respondents are directed to do the needful while adjudicating upon the

representation(s) of the petitioners as per the terms and conditions, extracted herein above, in the case of Smt. Rooplata Meena (supra), which have been agreed upon by the parties. The State-respondents would determine the representation(s), of the petitioners as expeditiously as possible, however, in no case later than two months from the date a certified copy of this order along with representation(s) is presented.

In the cases where the petitioners have not been relieved, they may not be relieved until determination of the representation(s).

Needless to observe that in case, the petitioners are still aggrieved of the determination on their representation, they will be at liberty to avail of the legal remedy in accordance with law.

With the observations and directions, as indicated above, the instant batch of writ applications is disposed off."

It is further urged that instant writ application be disposed off in terms of the order dated 24th July, 2017, in the case of Prem Bai Meena (supra).

In view of the statement made; instant writ application is disposed off in terms of the order dated 24th July, 2017, in the case of Prem Bai Meena (supra).

(VEERENDR SINGH SIRADHANA)J.

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