

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

BENCH AT JAIPUR

S.B.CIVIL WRITS NO. 9650 / 2014

Jamaluddin S/o Sh. Janim Mohammad aged about 33 years resident of village Laxmipura, Post Bhaduyon Ki Kotdi, Tehsil Hurada, Distt Bhilwara, 311023, Rajasthan presently working as Urdu Shiksha Sahyogi at Madarsa Ashrafiya Anjuman, Village Hurda, Disttt. Bhilwara.

-----Petitioner

Versus

1. State of Rajasthan through the Chief Secretary, Govt. Secretariat, Jaipur (Raj.).
2. The Director, Department of Minority Affairs (Through Principal Secretary) Govt. of Rajasthan, Jaipur.
3. Rajasthan Madarsa Board (Through Secretary) Shiksha Sankul, Opp. OTS, JLN Marg, Jaipur, Rajasthan.
4. The Department of Minority Affairs (Through Principal Secretary) Govt. of Rajasthan, Jaipur.
5. Department of Social Welfare (Through Principal Secretary) Govt. of Rajasthan, Govt. Secretariat, Jaipur.

-----Respondents

For Petitioners : Shri Iliyas Khan Adv.

For Respondents : Shri Rajan Prajapati Adv. on behalf of
Shri Dharamveer Tholia AAG

HON'BLE MR. JUSTICE AJAY RASTOGI

Judgment

13/12/2016

The petitioner is a differently abled person & 100% blind, certificate to this effect is on record Annx.1. He qualified under-graduation in the year 2006 and B.Ed. in 2007 and looking to humanitarian considerations & keeping in mind his qualification the petitioner after going through the selection process was

appointed as Urdu Education Assistant and posted at Gulabpura, Tehsil Hurda, District Bhilwara under the orders of Secretary, Raj. Madarsa Board, Jaipur dt.5-5-2012. It is not disputed by the respondents that since initial appointment he is continuously discharging his duties but without any justification he was not paid monthly salary for sufficient long time and the petitioner approached the concerned competent authority and after having been exhausted all his remedies as a last resort he approached to this Court by filing instant petition with the complaint that there is no justification forthcoming for withholding his monthly salary and at least that must be released.

Notices were issued by this Court on 23-9-2014 and which were duly served. Reply to the petition has filed and no justification has been tendered as to why his monthly remuneration has been withheld by the respondents and the defence of the State Government in the counter affidavit is that he is not eligible to hold the post as he is not holding the subject of Urdu and that is the reason for which his salary was withheld.

This Court took cognizance of the matter and order was passed on 24-9-2016 directing the respondents to ensure that due salary of the petitioner shall be paid to him within a period of 15 days & in compliance of interim order dt.24-9-2016, office order has been placed dt.2-12-2016, according to which a sum of Rs.2,34,032/- has been transferred to his bank account,



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which the counsel also admits.

After hearing counsel for the parties, this Court finds no reasonable justification in withholding salary of the petitioner and the reason assigned regarding his qualification is without substance. The petitioner is holding the qualification of B.A./B Ed. which is much higher qualification and teaching for the last four years and what more is being expected from a person to hold the post of Urdu Education Assistant and this Court finds no reasonable basis available with the respondents to raise objection in this regard at such belated stage and one thing which is attached to it that he is differently abled person and 100% blind and it is for the officers of the Government to have at least this much of sensitivity in dealing with the matters of differently abled person in whose support the parliament in its wisdom has enacted the Act of 1995 to protect their rights but the ground reality is something else than what is being claimed by the Government.

Consequently, writ petition succeeds and is hereby allowed. The respondents are directed to allow him to discharge duties of the post of Urdu Education Assistant pursuant to order of appointment dt.5-5-2012 and shall be paid his regular monthly salary which shall be deposited directly to his bank account.

(AJAY RASTOGI)J.