

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 12294 / 2016

1. Narendra Singh Shekhawat S/o Shri Swai Singh Shekhawat, Aged About 35 Years, R/o 182, ZSB BJS Colony, Jodhpur, Rajasthan.

2. Pankaj Sharma S/o Shri Chiranjee Lal Sharma, Aged About 32 Years, R/o Village Post Bandanbada, Tehsil Minay, District Ajmer, Rajasthan

3. Madan Nagalia S/o Shri Leeladhar, Aged About 34 Years, R/o Ward No. 21, Regar Mohalla, Near Ganga Mandir Chowk, Hanumangarh, Rajasthan.

4. Anoop Kumar S/o Shri Rameshwar Dayal, Aged About 28 Years, R/o 119/370, Agarwal Forms, Mansarovar, Jaipur, Rajasthan.

5. Prakash Chand S/o Shri

----Petitioners

Versus

1. State of Rajasthan Through Secretary,, Department of Education, Jaipur.

2. The Director,, Secondary Education, Bikaner Rajasthan.

3. The Principle Secretary, Department of Finance, Government of Rajasthan, Jaipur.

----Respondents

Connected With

D.B. Civil Writ Petition No. 12209 / 2016

1. Rajaram Vishnoi S/o Babulal Vishnoi, Aged About 37 Years, V/P- Hanuman Nagar, Bhojasar, Tehsil- Phadlodi, District- Jodhpur, Rajasthan.

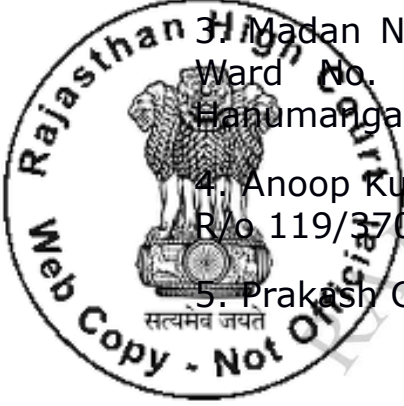
2. Jetharam Vishnoi S/o Bhakarram Vishnoi, Aged About 35 Years, V/P- Nausar, Tehsil- Osian, District- Jodhpur, Rajasthan.

3. Shravan Kumar Dhayal S/o Mangalaram, Aged About 36 Years, V/P- Kanawas Ka Pana, V/P- Jhaleli Faujdar, District- Jodhpur, Rajasthan.

4. Jagdish Godara S/o Rameshwar Lal Godara, Aged About 36 Years, V/P- Dhannasar, Tehsil- Rawatsar, Hanumangarh.

5. Bhagwan Das Chouhan S/o Dhanraj Chouhan, Aged About 33 Years, E-6, UIT Colony, Pratap Nagar, Jodhpur.

6. Jagdish Prakash Mehla S/o Shri Cholaram, Aged About 47 Years, 161, Plot No. 56/2, Saran Nagar, Jodhpur.



-----Petitioners

Versus

1. State of Rajasthan Through Secretary, Department of Education, Jaipur.
2. Director, Secondary Education, Bikaner, Rajasthan.
3. Principal Secretary, Department of Finance, Government of Rajasthan, Jaipur.

-----Respondents



For Petitioner(s) : Mr. Kuldeep Mathur

For Respondent(s) : Mr. Rajesh Panwar, AAG

HON'BLE THE CHIEF JUSTICE

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

Judgment

01/05/2017

1. D.B. Civil Writ Petition No.8063/2016 was allowed by this Bench on April 10, 2017, the order reads as under:

"1. Rule 24 of the Rajasthan Civil Services (Revised Pay) Rules, 2008 reads as under:

"24. Fixation of pay on promotion on or after 01.09.2006. - In the case of promotion from one grade to another in the running pay band, the fixation will be done as follows:-

(i) One increment equal to 3% of the sum of the pay in the running pay band and the existing grade pay will be computed and rounded off to the next multiple of 10. This will be added to the existing pay in the running pay band. The grade pay corresponding to the promotion post will thereafter be granted in addition to this pay in the running pay band. In case where promotion involves change in the running

pay band also, the same methodology will be followed. However, if the pay in the running pay band after adding the increment is less than the minimum of the higher pay band to which promotion is taking place, pay in the running pay band will be stepped to such minimum.”



2. The Rule is clear. In case of promotion from a lower grade to a higher grade in the running Pay Band the fixation of the pay of the officers promoted is as per the Rule. Meaning thereby, at the first instance, the first limb of the Rule has to be applied and the pay fixed.

3. Thereafter further exercise has to be carried out. If there is element of direct recruitment to the post in question, apart from promotion, if as a result of implementation of the first limb of the Rule the pay gets fixed at less than the minimum of the higher Pay Band, the pay has to be stepped up to such minimum.

4. The writ petitioners joined service as Class-IV employees of this Court. The post of Junior Judicial Assistant has a quota for Class-IV employees to earn promotion through a competitive examination. It is also to be filled up by direct recruitment. The Pay Band in question is ₹5200-20200. Grade Pay is ₹2400. For a direct recruit, the minimum of the pay in the Pay Band in the Grade Pay is fixed at ₹9840. This was initially granted to the petitioners but later on sought to be reduced to ₹9720. The reduction was proposed on the first limb of the Rule, overlooking the second.

5. The writ petition is accordingly disposed of quashing the impugned communication dated

July 13, 2016. It is declared that on promotion as Junior Judicial Assistant the minimum pay of the petitioners fixed at ₹9840 is correct.

6. No costs."

2. The only difference in the instant petition would be that the pay band in question is PB-2 with grade pay 4800.

3. The petitioners are promotee officers. There is an element of direct recruitment to the post in question. The anomaly which has resulted is that direct recruits appointed after petitioners were promoted are being paid salary in the minimum of the higher pay band and as regards the petitioners the benefit of latter part of Sub Rule 1 of Rule 24 of the Revised Pay Rules is not being granted.

4. In view of the aforementioned decision the writ petitions are allowed. Impugned communications fixing salary of the petitioner omitting the benefit of the latter part of Sub Rule 1 of Rule 24 are quashed. The recovery sought to be made are also quashed. Mandamus is issued that upon promotion salary of the petitioners would be fixed in the minimum of the higher pay band as applicable to direct recruits.

5. No costs.

(DR.PUSHPENDRA SINGH BHATI) J. (PRADEEP NANDRAJOG)CJ.