

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

D.B. Special Appeal Writ No. 833/2019

Amarpal Son of Shri Hiralal Brahmin, Aged About 51 Years,
Resident of Kanwar, Tehsil Bayana, District Bharatpur.

----Appellant

Versus

1. The State of Rajasthan, Through Gramin Rajya And Panchayat Department, Secretariat, Jaipur.
2. The District Development Officer, Panchayat Department, Bharatpur.
3. The Vikas Adhikari, Panchayat Samiti Bayana, District Bharatpur.
4. The Head Master, Primary School, Kanwar Tehsil Bayana, District Bharatpur.

----Respondents

For Appellant(s)	:	Mr. V.L. Mathur Mr. Amit Kumar Dhawan
For Respondent(s)	:	Ms. Sheetal Mirdha, AAG Mr. Prateek Singh

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SATISH KUMAR SHARMA**

Judgment

25/03/2021

1. This intra court Appeal has been filed against the order dated 13-11-2018, vide which the SB Civil Writ Petition No.5320/1999 filed by the appellant has been dismissed.
2. Heard learned counsel for both the sides and perused the material available on record.
3. Learned counsel for the appellant-petitioner submits that this court vide order dated 8-4-1992 in SB Civil Writ Petition No.3028/1988 has declared the termination of the appellant-

petitioner as illegal and void. The appellant-petitioner has worked with the respondents upto March, 2015, but he has not been given regular pay scale of Class-IV employee, for which the appellant is legally entitled. The writ petition has been wrongly dismissed by the learned Single Judge without considering the matter in proper perspective.

4. Learned counsel for the appellant-petitioner further submits that the appellant is a poor person. Due to financial constraints he could not avail the alternative remedy as per directions issued vide order dated 8-4-1992 and he is unable to avail the alternative remedy as per directions issued vide impugned order dated 13-11-2018.

5. Learned counsel for the respondents submits that the appellant-petitioner is not a regular employee but a part time employee. He has not been appointed on regular basis under class-IV Rules, therefore, he is not entitled for regular pay scale of Class-IV employee. Further, in compliance of the order dated 8-4-1992 the appellant-petitioner was required to approach the Competent Authority under Section 33 (C) (2) of the Industrial Disputes Act, 1947 (hereafter 'the Act of 1947') for the back wages, but he has not complied with the said directions. He has again filed the writ petition, which has been rightly dismissed vide impugned order with liberty to the appellant-petitioner to approach the Payment Wages Authority for calculation of rightful wages for which the appellant-petitioner can be held entitled. But instead of taking the appropriate alternative remedy, the appellant has approached this court.

6. Heard. Considered.

7. Having heard learned counsel for both the sides, we find that vide order dated 8-4-1992 the appellant-petitioner was required to approach the Competent Authority under Section 33 (C) (2) of the Act of 1947 for the back wages and on the issue of regular pay scale the appellant was left free to raise dispute in accordance with the provisions of the Act of 1947. Learned Single Judge vide impugned order has clearly held that the question of wages for the period during which the petitioner worked can be best adjudicated by the Payment of Wages Authority, therefore, the appellant has been set at liberty to approach the competent authority for claiming the pay for the period during which he worked. Further, learned Single Judge has also fixed a time bound period of nine months for the Payment of Wages Authority to complete the exercise. In view of above, we find no error in the impugned order, therefore, the appeal is dismissed.

8. If the appellant-petitioner applies for legal aid, in order to avail the legal remedy, he shall be provided with required legal aid as per Rules.

सत्यमेव जयते

(SATISH KUMAR SHARMA),J

(INDRAJIT MAHANTY),CJ