

Court No. - 10

Case :- WRIT - A No. - 64422 of 2008

Petitioner :- Ram Pujan Pandey

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Vinod Dwivedi, Gk Mishra, Pradeep Kumar Dwivedi, R.K. Mishra, S.P. Shukla

Counsel for Respondent :- C.S.C., G.K. Mishra

Hon'ble Kshitij Shailendra, J.

1. Heard Sri P.K. Dwivedi, learned counsel for the petitioner, Sri I.P. Srivastava, learned Additional Chief Standing Counsel for the State-respondents and perused the record.
2. The petitioner was appointed as Telephone Attendant as a muster roll employee in the respondent department on 14.12.1976. Thereafter, he was promoted on 01.02.1979 on the post of Supervisor in the pay scale of Rs.175-3-205 E.B-4-225-5-250.
3. The case of the petitioner is that he continued to serve the department and, after completing 33 years of continuous service, he retired on 31.12.2009, however, his post retiral benefits have not been released and, therefore, the writ petition was filed.
4. A counter affidavit has been filed taking a stand that though the petitioner was appointed in a regularized establishment but his services were not regularized and, therefore, he has rightly been denied the financial benefits as claimed by him.
5. I have perused the entire record of the writ petition, the orders of appointment and promotion issued to the petitioner, the entries in the Service Book and I find that in view of the judgment of the Apex Court in the case of **Prem Singh and others Vs. State of U.P. and others: (2019) 10 SCC 516** and Division Bench judgment of this Court in **Dr. Madan Gopal Pandey and others Vs. State of U.P. and others: 2018 (11) ADJ 92 DB**, the entire length of services rendered by the petitioner either in work charge capacity or otherwise on the promoted post should be counted for granting pensionary benefits. Merely because no specific order of regularizing the services of the petitioner was issued, the same would not come as an obstruction in releasing the post retiral benefits, particularly the pension, as already held in **Prem Singh (supra)**.

6. The writ petition succeeds and is **allowed**.

7. A writ of mandamus is issued to the respondents no.2 and 3 to compute the benefits of post retiral dues admissible to the petitioner strictly in the light of the judgment passed by the Apex Court in the case of **Prem Singh (supra)** and release the same in favour of the petitioner within a period of three months from the date a certified copy of this order is produced before them.

8. In case certain benefits are not found to be payable, specific and reasoned order shall be passed by the authorities within the same period of time.

Order Date :- 7.11.2023

AKShukla/-