Court No. - 34

Case :- WRIT - A No. - 17927 of 2023

Petitioner :- Sudarshan Singh And 5 Others
Respondent :- State Of U.P. And 4 Others
Counsel for Petitioner :- Achche Lal Singh Yadav
Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar,J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State respondents.

2. The petitioners before this Court have prayed for pensionary benefits on the plea that one identically placed person, namely, Awadhesh Kumar Dubey who has worked with the department as Lekhpal from 22.12.1990 till 30.06.2022 has been paid post retirement dues upon his retirement.

3. It is contended on behalf of the petitioner that there has been a checkered history of litigation in matters of such employees like the petitioners and the petitioners' initial writ petition against the order of dismissal from service came to be allowed by this Court on 28.11.2016 being Writ - A No.- 5813 of 2012 in terms of the order passed on 12.9.2016 corrected on 18.12.2016 in Writ - A No.- 59038 of 2011 Dara Singh Chauhan and others vs. State of U.P. and others.

4. It transpires also from the record that this matter was unsuccessfully appealed against in the intra court appeal and thereafter the matter went to Supreme Court and upon being remanded by the Supreme Court, the said writ petition was allowed by this Court vide detailed judgment and order dated 18.10.2022.

5. Learned counsel for the petitioner has submitted that the petitioners after their petition was allowed in the year 2010 continued to discharge their duties as Lekhpal and in this regard an observation has also come to be made in paragraph 26 of the order dated 18.10.2022 by a co-ordinate Bench of this Court. The observation as made in paragraph 26 of the aforesaid judgment is reproduced hereunder:

"26. Here, before parting, it may also not be lost sight, barring the present petitioner and three others, all other similarly situated

persons (148 in number) are continuing in job. Further, in face of the discussion made above, there never existed any justifiable ground to dispense with the services of the present petitioner. In view of the above, writ petition is allowed."

6. It is contended that aforesaid judgment was assailed against in intra court appeal being Special Appeal No.- 370 of 2023 which is now been dismissed on 19th September, 2023.

7. In the circumstances therefore, it is claimed that the petitioner would be entitled to post retirement dues as he continued to serve the department uninterruptedly for more than 10 years.

8. Learned counsel for the petitioner has further placed reliance upon an order of co-ordinate Bench of this Court passed in Writ - A No.- 6140 of 2023 on 10.4.2023 wherein the claim of identically placed one employee, Sarish Kumar Singh has been allowed. He submits that concerned District Magistrate may be directed to consider their grievance may be considered

9. Learned Standing Counsel submits that the matter can be directed to be examined by the District Magistrate concerned strictly in accordance with law if the petitioners approached the authority by filing a fresh representation.

10. In view of the above, the petition stands **disposed of** with direction to the petitioners to move representation before the District Magistrate concerned within a period of three weeks who shall look into and consider the grievance of the petitioners strictly in accordance with law after giving reasonable opportunity of hearing to the petitioners.

11. It is further provided that in the event petitioners are held entitled to post retirement dues, the same shall be paid to them within the next 30 days of taking decision by the authority.

12. It is expected that the authority shall do the needful as directed above within the period of two months of the production of certified copy of this order.

Order Date :- 26.10.2023
IrfanUddin

Digitally signed by :-
IRFAN UDDIN SIDDIKI
High Court of Judicature at Allahabad