

Court No. - 33

Case :- WRIT - A No. - 17991 of 2023

Petitioner :- Vinod Kumar Shukla

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Syed Wajid Ali

Counsel for Respondent :- C.S.C., Usha Kiran

Hon'ble J.J. Munir, J.

A counter affidavit has been filed by Ms. Usha Kiran, learned Counsel appearing on behalf of respondent nos. 2 to 4 today in Court. It is taken on record. Let it be numbered by the office.

Heard Mr. Syed Wajid Ali, learned Counsel for the petitioner, Ms. Usha Kiran, learned Counsel appearing on behalf of respondent nos. 2 to 4 and Mr. A.B. Sinha, learned Standing Counsel appearing on behalf of respondent no. 1.

This writ petition has been filed seeking a mandamus directing the respondents to pay the petitioner's salary for 27th and 28th July, 2022 and a further direction to verify his services in the service book. It is also prayed that the petitioner's pension papers may be forwarded for the purpose of timely disbursement of his post retiral benefits. The petitioner has retired from service on 31.10.2023.

The short facts of this case appear to be that the petitioner was a Cashier, employed with the Kanpur Electricity Supply Company (for short, the 'KESCO'). *Vide* order dated 30.06.2022, the Managing Director, KESCO transferred the petitioner by a general order from Nagriya Vidyut Vitran Khand, Kidwai Nagar, KESCO to the Nagriya Vidyut Vitran Mandal-1st, KESCO, Kanpur Nagar. The Executive Engineer issued a consequential order dated 26.07.2022 transferring the petitioner from Nagriya Vidyut Vitran Khand, Kidwai Nagar,

KESKO to the place of his new posting on transfer. The petitioner made an application for grant of medical leave on 27.07.2022 before the Executive Engineer, Kidwai Nagar KESCO, Kanpur Nagar with effect from 25.07.2022 for a period of three weeks. The Executive Engineer endorsed on 27.07.2022 on the said application that the request for grant of medical leave would be entertained at his new place of posting since he has been relieved on 26.07.2022 in the afternoon from Vidyut Khand, Kidwai Nagar, KESCO, Kanpur Nagar. The petitioner received the letter, relieving him dated 26.07.2022, on 28.07.2023. The petitioner has joined the office at Nagriya Vidyut Vitran Mandal-1st, KESCO, Kanpur Nagar on 29.07.2022, sending his joining report through registered post. The petitioner then put in his leave application at the place of his new posting. The petitioner's grievance appears to be that the salary payable to him for 27th and 28th July, 2022 was initially paid to him, but then recovered. It is the petitioner's case that denial of two days salary is illegal and once paid, it would be deemed a sanction of medical leave for those days. The petitioner has been deprived of two days of his salary, without affording due opportunity. It is urged that the petitioner's service has not yet been verified, and that, not verifying of his service book, leads to delay in payment of his post retiral benefits.

A counter affidavit has been filed on behalf of respondent nos. 2 to 4, as already noted above. In paragraph no. 6 of the affidavit, it is categorically averred that it is false to say that recovery of salary for two days i.e. 27.07.2022 and 28.07.2022 has been effected from the petitioner's salary. So far as the verification of the petitioner's service book is concerned, it is averred in paragraph no. 10 of the affidavit that it is 'under process'. It is also averred in the said paragraph that it is incorrect to say that

verification of the petitioner's service book is being shifted about for the responsibility of it by one officer to another.

From the stand taken in the counter affidavit, there hardly appears to be any issue between parties. The respondents deny that they have deducted the petitioner's salary for two days i.e. 27.07.2022 and 28.07.2022. Once the respondents say that they have not deducted the petitioner's salary, there should be no difficulty in verifying the petitioner's service, and also his service book because the petitioner retired from service in the meanwhile on 31.10.2023.

In the circumstances, the writ petition is **allowed** and a mandamus is issued ordering the Managing Director, Kanpur Electricity Supply Company Limited, Kanpur, the Superintendent Engineer, Vidyut Nagriya Vitran Mandal-1st, KESCO, Kanpur and the Executive Engineer, Nagriay Vidyut Vitran Khand, Kidwari Nagar, KESCO, Kanpur Nagar to ensure amongst themselves verification of the petitioner's service book and payment of the petitioner's post retiral benefits within a period of four weeks of the date of communication of this order. There shall be no order as to costs.

Let this order be communicated to the Managing Director, Kanpur Electricity Supply Company Limited, Kanpur, the Superintendent Engineer, Vidyut Nagriya Vitran Mandal-1st, KESCO, Kanpur and the Executive Engineer, Nagriay Vidyut Vitran Khand, Kidwari Nagar, KESCO, Kanpur Nagar by the Registrar (Compliance) **within 72 hours**.

Order Date :- 5.12.2023

Deepak