

Court No. - 34

Case :- WRIT - A No. - 18256 of 2023

Petitioner :- Rajendra Ram

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

Counsel for Petitioner :- Akhilesh Kumar Ojha, Sumit Kumar Pathak

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar, J.

1. Heard learned counsel for the parties.
2. Petitioner, who has been working on the post of Head Constable, claims promotion against the post of Sub Inspector which has been accorded to various persons of his seniority under the order issued by the Police Headquarter on 06.10.2023.
3. Learned counsel for the petitioner has argued that in the year 2013 while he was working as Constable, he was awarded adverse entry against which he preferred a departmental appeal which came to be dismissed on 04.02.2015. Consequently, he challenged both the orders before the U.P. State Services Tribunal, Lucknow vide Claim Petition No. 1018 of 2015. The said claim petition came to be allowed by the order dated 01.11.2017 setting aside the order of adverse entry and also of the appellate authority and directing for all consequently benefits as well to the petitioner. The operative portion of the order is reproduced hereunder:

आदेश

" याचिका स्वीकार की जाती है। विपक्षी संख्या -4 द्वारा पारित दण्डादेश दिनांक 15-6-2013 (संलग्नक संख्या-5) जिसके द्वारा याची को वर्ष 2012 के लिए परिनिंदा प्रविष्टि का दण्ड पारित किया गया है एवं अपीलीय आदेश दिनांक 04-02-2015 (संलग्नक संख्या-7) निरस्त किये जाते हैं। इस दण्ड के आधार पर रोके गये सेवा सम्बन्धी सभी लाग याची नियमानुसार पाने का अधिकारी है। विपक्षीगण इस निर्णय एवं आदेश का अनुपालन इस निर्णय की प्रमाणित प्रति प्राप्त होने की तिथि से तीन माह के अन्दर करना सुनिश्चित करेंगे।

उभयपक्ष वाद व्यय वहन करेंगे।"

4. It transpires that as a consequence to the same, an order came to be passed by Superintendent of Police, Deoria on 03.12.2018 noticing the judgment of the Tribunal dated 01.11.2017 and the request made by the petitioner for restoration of all service benefits directed that the petitioner be given all such benefits that had been withheld on account of punishment in the nature of adverse entry provisionally being awarded to him. Relevant part of the order dated 03.12.2018 passed by Superintendent of Police Deoria is reproduced hereunder:

" कान्स० 892470165 ना०पु० राजेन्द्र राम द्वारा माननीय न्यायालय के निर्णय दिनांक 01.11.2017 संलग्नकर यह अनुरोध किया है कि माननीय न्यायालय के निर्णय का समादर करते हुये उसकी चरित्र पंजिका में अंकित उक्त दण्डादेश, अपील निरस्तीकरण आदेश को विलोपित किये जाने तथा उक्त दण्डादेश के कारण जिन-जिन लाभो से उसे वंचित किया गया है , समस्त पारिणामिक लाभो को प्रदान किये जाने संबंधी न्यायोचित आदेश पारित करने की कृपा करे।

अतः कान्स० 892470165 ना०पु० राजेन्द्र राम द्वारा दिये गये आवेदन पत्र दिनांकित 23.11.2017 पर सहानुभूति पूर्वक विचार करते हुये माननीय न्यायालय के आदेश दिनांक 01.11.2017 के अनुपालन में आदेश संख्या पी-37/2013 दिनांक 15.05.2013 एवं पुलिस उपमहानिरीक्षक गोरखपुर परिक्षेत्र गोरखपुर के आदेश संख्या-सीओजी-सीए-नौ-अपील-(73)/2013/2031 दिनांक 04.02.2015 को निरस्त किये जाने का आदेश पारित किया जाता है तथा उक्त दण्डादेश के कारण याची के रोके गये सेवा संबंधी सभी लाभ को दिये जाने का आदेश पारित किया जाता है। यह आदेश माननीय न्यायालय के आदेश दिनांक 01.11.2017 के अधीन रहेगा।

संख्या-य-386/2015

दिनांक 3.12.2018"

5. Petitioner, however, came to be promoted only routinely in the year 2021 and resultantly he could not be placed in the list of promotion of Sub Inspectors by way of seniority. The promotion list published by the Headquarter on 06.10.2023, copy whereof has been ground on record as Annexure No. 5 to the writ petition. Petitioner represented the matter and the Superintendent of Police, Azamgarh this time requested the Superintendent of Police (Establishment), Police Headquarter, U.P., Lucknow that the petitioner's claim for being accorded promotion as Head Constable since the year 2015 as his batch came to be promoted as such on account of adverse entry being set aside by the Tribunal.

6. Learned counsel for the petitioner submits that till date no decision has been taken despite letter written by the Superintendent of Police, Azamgarh on 04.11.2022. The operative portion of the request letter dated 04.11.2022 of Superintendent of Police, Azamgarh is reproduced hereunder:

" अतः अनुरोध है कि मुख्य आरक्षी ना०पु० 892470165 राजेन्द्र प्रसाद द्वारा प्रस्तुत प्रत्यावेदन दिनांक 27-02-2022 के आलोक में वर्ष 2015 के रिक्तियों के सापेक्ष मुख्य आरक्षी पद पर पदोन्नति प्रदान किये जाने के सम्बन्ध में निर्णय लेने की कृपा करें।"

7. Learned Standing Counsel submits that since the matter is engaging attention of the authority, therefore, Superintendent of Police (Establishment), Police Headquarter, U.P., Lucknow may be directed to do the needful in the matter.

8. Accordingly, direction is issued to the respondent no. 2 to pass appropriate orders in terms of the orders passed by the Tribunal and the earlier order passed by Superintendent of Police, Deoria and request made by Superintendent of Police, Azamgarh within a period of 30 days from the date of production of certified copy of this order and if the petitioner's claim found to be genuine in view of the orders quoted herein above in this order, he shall be accorded due promotion as Sub Inspection within a further period of 30 days restoring his seniority as a result of decision taken by the Tribunal in past.

9. With the aforesaid observations and directions this petition stands **disposed of**.

Order Date :- 31.10.2023
IrfanUddin