

Court No. - 7

Case :- WRIT - A No. - 13093 of 2018

Petitioner :- Raj Kumar Verma And Ors.

Respondent :- State Of U.P. Thru. Prin. Secy. Agriculture And Ors.

Counsel for Petitioner :- Surendra Pratap Singh, Rajendra Pratap Singh

Counsel for Respondent :- C.S.C., N.C. Mehrotra

alongwith

Case :- WRIT - A No. - 15309 of 2018

Petitioner :- Manoj Kumar

Respondent :- State Of U.P. Thru. Prin. Secy. Agriculture And Ors.

Counsel for Petitioner :- Rajendra Pratap Singh, Surendra Pratap Singh

Counsel for Respondent :- C.S.C., N.C. Mehrotra

Hon'ble Abdul Moin, J.

1. Heard learned counsel for the petitioners, learned Additional Chief Standing Counsel appearing for the respondents no. 1 & 2 and Shri N. C. Mehrotra, learned counsel appearing for the respondents no. 4 to 7.

2. Learned counsel for the petitioners contends that the issue involved in WRIT - A No. - 13093 of 2018 and WRIT - A No. - 15309 of 2018 are same. As such, the Court proceeds to hear both writ petitions together. For convenience, facts of WRIT - A No. - 13093 of 2018 are being taken.

3. The instant writ petition has been filed challenging the decision dated 24.01.2018 taken by respondent no. 1, a copy of which is annexure 1 to the petition. Further prayer is for a writ of mandamus commanding the respondents to consider the case of petitioners for grant of age relaxation and regularise their services on respective posts in accordance with proposals sent by Mandi Parishad.

4. Bereft of unnecessary details the case set forth by learned counsel for the petitioners is that all the petitioners were appointed between the years 1995 to 1996 as muster roll employees / daily wagers. They are still continuing to work on

their posts. It is contended that as of date also the petitioners are working and they have rendered 27 to 28 years of uninterrupted service under the respondents.

5. The petitioners staked their claim for being regularised in service which was considered by the Mandi Parishad and a recommendation was sent to the State Government duly recommending their case for being regularised. The recommendations in this regard have been sent by the Mandi Parishad vide order dated 02.12.2016, a copy of which is annexure 11 to the petition. The Mandi Parishad, under whom the petitioners are working, was experiencing certain difficulties in their regularization in as much as all the petitioners at the time of their initial appointments were underaged ranging from four months six days to one year two months and 25 days. The details of the petitioners in this regard finds place in the letter dated 27.12.2017, a copy of which is annexure 12 to the petition, as issued by the Mandi Parishad.

6. It is contended that a scheme namely U.P. Regularisation of Persons Working on Daily Wage or on Workcharge or on Contract in Government Department on Group C and Group D Post (outside the purview of Uttar Pradesh Public Service Commission) Rules, 2016 (hereinafter referred to as the Rules 2016) was issued by the State Government which was adopted by Mandi Parishad as a one time measure. All the petitioners, as already indicated above, did not meet minimum age criteria consequently the case was sent by the Mandi Parishad to the State Government for grant of relaxation of age which has resulted in the impugned decision dated 24.01.2018 wherein the State Government has refused to grant age relaxation in minimum age for the petitioners.

7. Being aggrieved the instant writ petition has been filed.

8. The contention of learned counsel for the petitioners is that admittedly the petitioners have been continuing in service right since their appointment in the years 1995 to 1996 i.e. for a period of almost 27 to 28 years. It is not the case of the respondents that the petitioners secured appointment by playing fraud or by placing fictitious documents. The petitioners had presented themselves for being appointed, may be on daily wages or as muster roll employees and the officers of the Mandi Parishad appointed the petitioners on their own accord. The petitioners continued uninterruptedly in service and are still continuing as of date. The Mandi Parishad made a serious endeavor for regularization of the service of the petitioners in accordance with the Rules 2016 but the same has not found favour with the State Government as emerges from a perusal of the decision dated 24.01.2018 per which the State Government has refused to grant relaxation in minimum age so as to enable the petitioners for being regularized.

9. The argument is that once the petitioners have already spent valuable years of their life in service of Mandi Parishad and have also continued uninterruptedly in service for a period of 27 to 28 years consequently the technical plea being taken by the State Government for not regularizing them is legally unsustainable in the eyes of law and cannot be considered to be a ground which can validly be taken by the State Government which is expected to act as a model employer and thus it is prayed that the decision impugned be set aside.

10. On the other hand, Shri N C Mehrotra, learned counsel appearing for the respondents no. 4 to 7 has contended that considering that the petitioners have been working all along, a serious endeavor was made by the Mandi Parishad for considering the case of the petitioners for regularization. It is contended that the Rules 2016 as had been issued by the State

Government, were approved for the purpose of regularization in the Mandi Parishad also. The case of the petitioner was considered in accordance with said scheme but as all the petitioners were found to be underaged at the time of appointment way back in the year 1995 to 1996 consequently their cases were referred to the State Government for grant of approval for relaxation of the minimum age which has not found favour with the State Government resulting in impugned decision dated 24.01.2018.

11. On the other hand, Dr Uday Veer Singh, learned Additional Chief Standing Counsel appearing for the respondents no. 1 to 3 argues that as there is no provision in the Rules 2016 or any other rule for relaxation of minimum age as such the approval for regularization of the services of the petitioners has not been granted by the State Government and as such there is no illegality and infirmity in the said order.

12. Heard learned counsel for the parties and perused the record.

13. From perusal of record it emerges that all the petitioners were admittedly appointed in the years 1995 to 1996. The appointment, whether as daily wager or muster roll, may not detain the Court in as much as admittedly all the petitioners are still continuing in service and thus have rendered 27 to 28 years of uninterrupted service in the Mandi Parishad. When the Rules 2016 were issued by the State Government, the claim of petitioners for regularization was considered by the Mandi Parishad but it was found that the petitioners are under aged for various periods ranging from four months six days to one year two months and 25 days as emerges from perusal of the letter dated 27.12.2017 issued by the Mandi Parishad. Considering this, the matter had been referred to State Government for

relaxation of the minimum age. The State Government, after considering the same, vide decision dated 24.01.2018 has rejected grant of relaxation in minimum age on the grounds that the Rules do not provide so.

14. The decision of State Government has been defended by learned Additional Chief Standing Counsel on the ground that when the Rules themselves do not provide for grant of relaxation in minimum age consequently in case the decision has been taken for not granting any age relation to the petitioners there is no illegality and infirmity in the same.

15. There cannot be any quarrel to the aforesaid argument as raised by learned Additional Chief Standing Counsel. However, the Court cannot loose sight of the fact that the State Government is a model employer and is expected to act as a model employer too. On the facts, as enumerated above, it is admitted that all the petitioners have been continuing in service since last 27 to 28 years meaning thereby that valuable years of their life have been spent in service of the Mandi Parishad. The age relaxation which the Mandi Parishad was seeking for the petitioners ranged between four months six days to one year two months and 25 days meaning thereby that the age relaxation being sought is a minuscule period of time spent by the petitioners working in service of Mandi Parishad.

16. The State Government as a model employer should have considered this aspect of the matter instead of rejecting the request of the Mandi Parishad for grant of age relaxation of the petitioner in a pedantic manner and with a patent non-application of the mind to the relevant facts of the case including the fact that the petitioners in fact have been working since last 27 to 28 years in service of the Mandi Parishad.

17. Accordingly, keeping in view the aforesaid discussion the

writ petition is **allowed**. The decision dated 24.01.2018, a copy of which is annexure 1 to the petition, is quashed. The matter is remitted to the respondent no. 1 i.e. Principal Secretary, Agricultural and Marketing Department, Civil Secretariat, Lucknow to pass an order with regard to age relaxation of the petitioners keeping in view the discussion made above.

18. Let an order in this regard be passed within a period of six weeks from the date of receipt of a certified copy of this order.

Order Date :- 23.11.2023

J.K. Dinkar