

Court No. - 7

Case :- WRIT - A No. - 14117 of 2019

Petitioner :- Iffat Aara

Respondent :- State Of U.P. Thru Secy. Secondary Edu. Lucknow And Ors.

Counsel for Petitioner :- Vipin Kumar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Abdul Moin,J.

1. Heard.

2. Instant writ petition has been filed praying for quashing of the order dated 15.01.2013, a copy of which is annexure 1 to the writ petition whereby the claim of the petitioner for appointment on the post of Subject Specialist has been rejected.

3. Bereft of unnecessary details, the facts of the case set forth by the learned counsel for the petitioner are that in pursuance to the Government orders dated 11.10.1999 & 13.06.2000, selection for appointment on the post of Subject Specialist was held. The petitioner applied for the same and a final select list was prepared. Total 262 persons including the petitioner, were issued appointment letters. However, in pursuance to the D.O.letter dated 12.10.2000, the entire selection proceedings were suspended and later cancelled.

4. Challenging the cancellation, various writ petitions were filed including Writ Petition No. 10048 of 2001 Inre; Awadhesh Kumar Vs. State of U.P and Ors and this Court vide judgment and order dated 09.03.2010, a copy of which is annexure 4 to the writ petition held that mass cancellation of the selection that had occurred subsequent to the selection was not countenanced and the State Government was required to constitute a Scrutiny Committee in respect of the selection in question for segregating the good part from bad part after examination of the records of each of the selected candidate separately. The exercise was required to be completed within a specified time.

5. In pursuance thereof, the respondents issued a list, a copy of which is annexure 5 which, so far as it pertains to the petitioner, indicated that the selection of the petitioner was found to be correct.

6. It is contended that other candidates whose names were indicated in the said list namely at Serial No. 28 Sri Varunesh Chandra Shukla & at Serial No. 30 Sri Awadhesh Kumar and their selection was also found to be correct. Sri Awadhesh Kumar was appointed by the respondents on 17.02.2012. However, Sri Varunesh Chandra Shukla was not appointed which resulted in Sri Shukla filing Writ Petition No. 6216 (SS) of 2015 Inre; Varunesh Chandra Shukla Vs. State of U.P and ors. This Court vide judgment and order dated 10.11.2016, a copy of which

is annexure 11 to the writ petition set aside the rejection order in the case of Sri Shukla and directed the first respondent to consider the matter of the petitioner in the light of the directions issued in the case of **Awadhesh Kumar (supra)** expeditiously.

7. The petitioner along with several others also preferred Writ Petition No. 1509 (SS) of 2012; Inre; Kumar Iffat Aara and Ors Vs. State of U.P and Ors praying for extension of the benefit of the judgment passed by this Court in the case of **Awadhesh Kumar (supra)**. This Court vide judgment and order dated 04.02.2012, a copy of which is annexure 8 to the writ petition dismissed the petition on the ground of delay and laches. However, it was made clear by this Court that dismissal of the writ petition would not in any manner debar the petitioners from appointment on the post in question in case the respondents decide to grant the same to the petitioners on the basis of decision taken in compliance of the judgment in the case of **Awadhesh Kumar (supra)**.

8. Subsequent thereto, the petitioner approached the respondents seeking benefit of the judgment in the case of **Awadhesh Kumar (supra)** which in turn has been rejected vide order impugned dated 15.01.2013 on various grounds including her petition having been dismissed by this Court vide judgment and order dated 04.04.2012.

9. Raising a challenge to the order impugned, the instant writ petition has been filed.

10. The argument of learned counsel for the petitioner is that when with respect to the same selection one of the candidate namely Sri Awadhesh Kumar has already been appointed by the respondents on 17.02.2012 and even the selection of the petitioner has been found to be correct consequently, there cannot be any occasion for the respondents to discriminate against the petitioner and in not appointing her and thus the rejection of the claim of the petitioner by means of order impugned merits to be set aside.

11. Having heard the learned counsel for the petitioner and having perused the records what emerges is that the petitioner was selected as a Subject Specialist in terms of the selection conducted by the State Government. However, the selection was cancelled. This Court in the case of **Awadhesh Kumar (supra)** required the respondents to segregate the good part from the bad part. In pursuance thereof, the respondents prepared a list in which the selection of the petitioner along with several others including that of **Awadhesh Kumar (supra)** has been found to be correct. Admittedly, Sri Awadhesh Kumar was appointed on 17.02.2012. The petitioner staked her claim along with several other for being extended the benefit of the judgment of this Court in the case of **Awadhesh Kumar (supra)**. The said writ petition was dismissed vide judgment and order dated 04.12.2012 on the ground of delay and laches. However, the Court declared that the dismissal of the writ petition would not be in any manner debar the petitioners from appointment on the post of question in case the respondents decided to grant the same to the petitioners on the basis of the decision taken in compliance of the judgment in the case of **Awadhesh Kumar**

(supra).

12. In pursuance thereof, the petitioner approached the respondents who have rejected her claim on various grounds by means of the order impugned dated 15.01.2023 including the ground of there being gross delay and laches on the part of the petitioner and her petition having been dismissed.

13. A perusal of the judgment passed by this Court in the case of **Awadhesh Kumar (supra)** as well as in the case of petitioner herself as per the judgment and order dated 04.12.2012 would indicate that in the earlier round of litigation, the petitioner has been unsuccessful and the writ petition has been dismissed. Merely because the respondents have reiterated what has been held by this Court in its judgment dated 04.12.2012 as emerges from a perusal of the order dated 15.01.2013 would not result in the petitioner being granted a benefit which has already been turned down by this Court vide delivering the earlier judgment and order dated 04.12.2012. It is not the case of the petitioner that the earlier judgment of this Court has ever challenged by the petitioner or any of the other persons. Thus, in effect once the relief as has been prayed for by the petitioner of her appointment on the post of Subject Specialist having already been negated by this Court in the earlier round of litigation as such, there cannot be any occasion for this Court to now pass an order which would run contrary to the earlier judgment of this Court, which has attained finality

14. Considering the aforesaid, no case for interference is made out. Accordingly, the writ petition is dismissed.

Order Date :- 28.11.2023

Pachhere/-