

Court No. - 8

Case :- WRIT - A No. - 1303 of 2023

Petitioner :- Rakesh

Respondent :- State Of U.P. Thru. Prin. Secy. Sainik Kalyan Vibhag Lko.
And Others

Counsel for Petitioner :- Rajesh Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. Heard Mr. Rajesh Kumar Singh, learned counsel for the petitioner, as well as Mr. Sandeep Chandra, learned Standing Counsel for the respondents-State Authorities.

2. This petition under Article 226 of the Constitution of India has been filed, impugning the order dated 02.01.2023 passed by the Director, Directorate Sanik Kalyan Evam Punarvas, Lucknow whereby the order dated 30.01.2023 for regularizing the petitioner on the post of sweeper has been cancelled on the ground that the petitioner's initial appointment on 21.10.1997 was made on the fixed pay and, therefore, he was not entitled for regularization, increments and benefit of ACP.

3. After the petitioner was regularized on 30.01.2003, he was given due increments and benefit of ACP was given to him in the year 2013, after completion of 10 years regular satisfactory service. Second ACP was granted to the petitioner in the year 2020. After 20 years from the date of regularization, the Department woke up and found that the petitioner's regularization was not as per the Rules, and he was not entitled for regularization. This Court finds this decision inconceivable. The petitioner, who is working for 26 years, and his regularization was made way back in the year 2003, after 20 years, saying that he was not regularized as per the Rules, is wholly arbitrary, unjust and improper. This Court cannot be a party to such an unjustified decision on the part of the respondents. Therefore, the impugned order is ***set-aside***. The petitioner shall be treated to be regular in service pursuant to the order dated 30.01.2003, and he shall be entitled for all benefits as regular employee.

4. **ALLOWED.**

[D.K. SINGH, J.]

Order Date :- 4.7.2023 MVS/-