

Court No. - 3

Case :- WRIT - C No. - 2539 of 2022

Petitioner :- Swatantra Singh

Respondent :- State Of U.P.Thru.Prin.Secy.Dep.Of Vigilance
And Another

Counsel for Petitioner :- Asim Kumar Singh, Chandra
Bhushan Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Vivek Chaudhary, J.

Hon'ble Manish Kumar, J.

1. Heard learned counsel for petitioner and learned Standing Counsel for the State.

2. Petitioner has approached this Court challenging the order dated 28.2.2022 passed by respondent no.2 whereby representation of petitioner is rejected.

3. Petitioner was appointed as a Up-Lokayukta and assumed his office on 01.10.2007. He retired in August, 2016. He claimed entitlement of Rs.10,000/- per month for taking service of a Sewak at his home as was entitled to a High Court Judge @ Rs.10,000/- per month instead of Rs.2,500/- which was being provided to him. Reliance was placed upon Section 5 of the U.P. Lokayukta and Up-Lokayukta Act, 1975 (for short 'the Act of 1975'), which reads as follows:

"5. The allowances and pension, if any, payable to, and other conditions of service of the Lokayukta or an Up-Lokayukta shall be such as may be prescribed:

Provided that in prescribing the allowances and pension payable to, and other conditions of service of-

a. The Lokayukta, regard shall be had to the allowances and pension payable to and other conditions of service, of the Chief Justice of the High Court;

b. The Up-Lokayukta, regard shall be had to the allowances and pension payable to, and other conditions of service of a Judge of a High Court:

Provided further that the allowances and pension, if any, payable to, and other conditions of service of the Lokayukta or an Up-Lokayukta shall not be varied of his disadvantage after

his appointment."

4. The representation of petitioner is rejected by the impugned order on the ground that as provided by Section 5(5) of the Act of 1975, the State Government has prescribed conditions of service and benefit of service payable to the Lokayukta and Up-Lokayukta by the Rules of 2008 and the said Rules do not provide for the benefit as claimed by petitioner, hence, the impugned order has been passed, rejecting the claim of petitioner.

5. Learned counsel for petitioner states that petitioner was appointed in the year 2007 i.e. prior to coming into force of Rules of 2008. The proviso to Rule 5(5) of the Rules of 1975 itself provides that conditions of service of the Lokayukta or an Up-Lokayukta shall not be varied of his disadvantage after his appointment, therefore, on the basis of Rules of 2008, the benefit to which petitioner was entitled to, could not be denied. The petitioner was entitled to the benefits which were being given to a High Court Judge at that time and at the relevant time, High Court judge was being paid Rs.10,000/- per month for a Sewak working at home and, therefore, petitioner was also entitled for the same. Hence, the impugned order is contrary to the proviso to Rule 5(5) of the Rules of 1975.

6. In the given facts and circumstances of the case, the impugned order dated 28.2.2022 cannot stand and is set aside. The petitioner is held to be entitled for payment of Sewak working at home as per Government Orders issued from time to time for the High Court Judges. The amount shall be paid to the petitioner as was being paid for a domestic Sewak to a High Court Judge for the period he rendered his service as Up-Lokayukta. The said amount shall be calculated and paid to the petitioner within a period of two months.

7. The writ petition stands ***allowed***.

[Manish Kumar,J.] [Vivek Chaudhary,J.]

Order Date :- 16.11.2023

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