

Court No. - 8

Case :- WRIT - A No. - 3145 of 2023

Petitioner :- Nand Kishore Pandey

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Forest Lko. And 3 Others

Counsel for Petitioner :- Nitin Kumar Mishra, Vijay Kumar Dwivedi

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel for the petitioner and Sri Shailendra Kumar Singh, learned Chief Standing Counsel assisted by Sri Tushar Verma, learned Standing Counsel.

2. The present writ petition under Article 226 of the Constitution of India has been filed impugning the order dated 24.2.2023, whereby the petitioner's representation dated 25.1.2023 in compliance of the order dated 8.4.2019 passed by this Court in Writ-A No.17960 of 2020, was rejected and his claim for regularization was declined on the ground that the petitioner had attained around 65 years of age, whereas the maximum age of a Government servant is 60 years. Second prayer has been made for a Writ of Mandamus commanding the opposite parties to regularize the services of the petitioner notionally w.e.f. 2011.

3. The petitioner was initially appointed on the post of Mali on 19.7.1980 at Kumarganj Range, Forest Department, District Faizabad. The petitioner's services were terminated on 1.6.1989. The petitioner challenged the termination order before the Labour Court and the Labour Court passed the award on 28.4.1997 and the termination order was set aside with direction for reinstatement of the petitioner in service. The said award of the Labour Court was affirmed by this Court vide judgement and order dated 16.9.2013 passed in Writ Petition No.6786 (SS)

of 2002.

4. Thereafter, the petitioner filed Writ Petition No.6290 (SS) of 2015 before this Court claiming regularization on the ground that juniors to the petitioner were regularized, but his claim for regularization was ignored. The said writ petition was allowed by this Court vide judgment and order dated 3.1.2019 with direction to consider the case of the petitioner for regularization in the light of the provisions of the Uttar Pradesh Regularization of Daily Wages Appointment on Group 'D' Post Rules, 2001. The petitioner's claim for regularization was again rejected vide order dated 8.4.2019 in compliance of the order dated 3.1.2019 passed by this Court in Writ Petition No.6290 (SS) of 2015.

5. The petitioner, thereafter, filed Writ-A No.17960 of 2020 challenging the order dated 8.4.2019, by which the petitioner's claim for regularization was rejected. This Court passed the judgement and order on 11.1.2023 directing to consider the case of the petitioner for regularization in the light of the observations made in the said order. The petitioner's claim was again rejected vide impugned order, hence the present writ petition.

6. This Court on 27.4.2023 passed the following order:-

"1. Heard learned counsel appearing for the petitioner and Ms. Deepshikha, learned Chief Standing Counsel appearing for the State.

2. Present petition under Article 226 of the Constitution of India has been filed seeking following reliefs:-

"(i) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 24.02.2023 passed by Opposite Party No.3 contain in Annexure No.1 to this Writ Petition passed by opposite party no.3, contained in Anneuxre No.01 to this writ petition.

(ii) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondents to notionally regularize the petitioner with effect from 2011 on the post of Group 'D' Mali in Forest Department, District Ayodhya, retrospectively granting all

service benefits the petitioner.

(iii)...

(iv)..."

3. Ms. Deepshikha, learned Chief Standing Counsel appearing for the State who seeks and is granted 10 days' time to file response to the writ petition.

4. In case before the next date of listing of this petition, the petitioner is not regularized as directed by this Court, respondent No.2 (Conservator of Forest, Social Forestry Department Ayodhya, Uttar Pradesh) and 3 (Divisional Forest Officer, Forest Department Ayodhya, Uttar Pradesh) shall remain present before this Court on the next date of listing of the case.

5. List on 11.05.2023."

7. In compliance of the order dated 27.4.2023, an affidavit of Range Forest Officer, Forest Department, Ayodhya has been tendered today in the Court. In the said affidavit, it has been stated that services of the petitioner have been regularized notionally w.e.f. 20.9.2013.

8. Considering the fact that services of the petitioner have been regularized notionally on Group 'D' post on Khalas in the pay scale of Rs.5200-20200 with Grade Pay of Rs.1800/- notionally w.e.f. 20.9.2013, the present writ petition is ***disposed of*** with direction that the petitioner should be paid arrears of salary and other consequential benefits within a period of three months from today in pursuance to the regularization order. The petitioner should also cooperate in finalization of the admissible dues.

Order Date :- 5.7.2023

Rao/-