

Court No. - 5

Case :- WRIT - A No. - 7244 of 2005

Petitioner :- Pramod Kumar Hearing List

Respondent :- State Of U.P.Through Prn.Secy. P.W.D.And 3 Others

Counsel for Petitioner :- S.P.Shukla,Rajesh Shukla,Rama Pati Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Irshad Ali,J.

1. Supplementary counter affidavit filed today in Court, is taken on record.
2. Heard Sri R.P. Shukla, learned counsel for the petitioner and Sri Rajesh Kumar Verma, learned Standing Counsel for the State-respondent.
3. By means of the present writ petition, the petitioner has challenged the order dated 19.6.2004, passed by the respondent No.4 (Annexure-6 to the writ petition) with the further prayer for issuance of writ of mandamus, commanding the respondents to make payment of salary to the petitioner in full fledged pay scale from the date of completion of ten years as a daily wager or from the date the persons who are juniors to him as daily wagers Maits are being paid salary in prescribed pay scale with all consequential benefits (whichever is earlier) and also put him in work charge establishment besides extending other benefits on equal footings as his junior Maits.
4. Factual matrix of the case is that the petitioner started working as Mait on daily wage under respondent No.4 on 1.4.1987 and has ever since been working as daily wager. The State Government issued an order providing that those daily wagers who had put in ten years of service should be placed in work charge establishment and be paid salary in regular prescribed pay scales on 31.1.1998. On 7.11.1998, since the petitioner had already completed ten years service as daily wager as on the cut off date and was qualified for the post and eligible in all respects, he made several requests to be given the regular pay scale, but when nothing was done by the respondents in the matter, he filed a writ petition and an interim order, directing the respondents to consider the case of the petitioner for regularization, if he had rendered ten years service, was granted.

5. Although, no action was taken in the matter of the petitioner in compliance of the said interim order or otherwise, but the respondents passed an order giving regular pay scales to various persons who were otherwise juniors to the petitioner as daily wagers on 13.3.2000. On 11.11.2003, the writ petition filed by the petitioner was decided by this Court with a direction to consider the case of the petitioner and to regularize him. It was also provided that other service benefits (which included pay parity) shall also be afforded to the petitioner from the date it was given to his juniors.

6. Despite repeated requests, the respondents did not given even a par parity with the juniors inasmuch as numerous juniors are now getting salary in the prescribed pay scale, but the petitioner is still being continued on daily wages. In a perfunctory compliance of the judgment, an order was passed by the respondent No.4, rejecting the case of the petitioner on the ground that since there was no post available, hence, the case of the petitioner for regularization would not be considered, leaving the other part- namely giving pay scale from the date, it was being given to his juniors- was left out untouched.

7. The entitlement of the petitioner in the prescribed pay scale at least from the date, he completed ten years of service on daily wages particularly when his juniors are being paid full fledged salary even the revised pay scales. The respondents are avoiding to give the said benefit to the petitioner arbitrarily and illegally, it is the submission of learned counsel for the petitioner.

8. It is submitted that the petitioner has been given regularization w.e.f. 28.7.2011, but the benefit given to the petitioner in the pay scale and allowances has not been provided. Due to non giving of the same, the petitioner is suffering great irreparable loss and injury.

9. Learned counsel for the petitioner submits that in case the petitioner is given liberty to make a representation before the respondent No.3 ventilating all his grievances with the direction to pass an appropriate order in accordance with law, justice would be met.

10. On the other hand, learned Standing Counsel submits that in case direction is issued to the respondent No.3 to pass an appropriate order, the same shall be passed within a reasonable period in regard to payment of regular pay scale and allowances w.e.f. the date his juniors have been granted.

11. In view of the submission advanced by learned counsel for

the parties, no useful purpose will be served in keeping the writ petition pending.

12. Accordingly, the writ petition is finally **disposed of** with the liberty to the petitioner to file a fresh comprehensive representation before the respondent No.3 ventilating all his grievances in regard to payment of regular pay scale and allowances, as has been provided to his juniors with the direction to the respondent No.3 to pass an appropriate reasoned speaking order in accordance with law after affording an opportunity of hearing to the petitioner within a period of six weeks from the date of production of a certified copy of the order.

Order Date :- 17.10.2023

Gautam