

Court No. - 8

Case :- WRIT - A No. - 3856 of 2023

Petitioner :- Ravi Shankar Srivastava And 14 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Panchayati Raj Anubhag Lko. U.P. And 2 Others

Counsel for Petitioner :- Kaushlendra Tewari, Bhashkar Mall

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel appearing for the petitioners and Sri Kuldeep Singh, learned Standing Counsel appearing for the State.
2. This is second petition filed by the petitioners claiming their promotions on the post of Assistant Accountant on completion of their 14 years' regular and satisfactory service i.e. with effect from 01.04.2001. They have also claimed consequential benefits as such pay scale of the post of Assistant Accountant with effect from 01.04.2001.
3. The petitioners had approached this Court by filing Writ A No.5687 of 2022. Said writ petition was disposed of by this Court vide order dated 05.09.2022.

Operative part of the order dated 05.09.2022 would read as under:-

"3. After arguing the matter at some length learned counsel for the petitioners submits that the petitioners may be given liberty to make fresh representation with regard to the grievances as detailed above to opposite party No.2 i.e. Director, Panchayati Raj Lekha, U.P., Lucknow, who may be directed to consider and decide the same expeditiously. Learned Standing counsel does not object to the same.

4. Accordingly, without entering into merits of the case, the petition is disposed of with a liberty to the petitioners to move fresh representation to opposite party No.2 i.e. Director, Panchayati Raj Lekha, U.P., Lucknow within two weeks from today. In case, such representation is made opposite party No.2 is directed to consider the same and decide by reasoned and speaking order in accordance with law expeditiously, say within a period of eight weeks thereafter and communicate the same to the petitioners."

4. In pursuance to the liberty of representation granted by this Court, the petitioners filed representation. Petitioners' were given opportunity of personal hearing on 28.11.2022.

5. Order impugned in the present petition is the decision on the representation of the petitioners. Impugned order would disclose that the petitioners were appointed on the post of Typist cum Junior Clerk in the pay scale of Rs.3050-4590/- between 1983 to 1991. They had completed their 14 years of service on different dates as mentioned in the impugned order and on completion of 14 years of service, they were granted pay scale of Rs.4,000-6,000/-. The petitioners were promoted to the post of Assistant Accountant on different dates between 2008 to 2010.

6. According to the learned counsel appearing for the petitioners, except for three petitioners namely, Sri Ram Bahadur, Sri Mahendra Pal Singh and Sri Shankar Lal Agarwal, all other petitioners have demitted office on attaining the age of superannuation.

7. Service conditions of the petitioners are governed by Departmental Service Rules of 1980, applicable in the Panchayati Raj Account Directorate, Government of U.P., Lucknow. A Junior Clerk may be promoted to the post of Senior Clerk or Assistant Accountant on the option given by Junior Clerk. For promotion to the post of Assistant Accountant substantively appointed Junior Clerks are required to pass the eligibility examination.

8. Vide Government Order dated 11.08.1983, post of Accountant Clerk with the pay scale of Rs.4,000-6,000/- was merged with the post of Assistant Accountant in the same pay scale i.e. Rs.4,000-6,000/-, and it was said that in future, no appointment/promotion would be made on the post of Accountant/Clerk.

9. Another set of Junior Clerks/ Typists had earlier approached this Court by filing another Writ Petition No.7737(SS) of 2005 : Amar Dutt Tripathi & Ors vs State of U.P. & Anr claiming their promotion to the post of Assistant Accountant after the new rules i.e. U.P. Panchayat (Accountant) Department Clerical and Accountant Cadre (non Gazetted) Service Rules, 2005 came

into force. Under the said Rules of 2005 post of Assistant Accountant is to be filled up by direct recruitment.

10. In view of the new Rules, opportunity for promotion to the post of Assistant Accountant from the post of Junior Clerk cum Typist became non existent. This Court disposed of said Writ Petition No.7737(SS) of 2005 vide judgment and order dated 19.03.2010. This Court directed the authorities to consider the case of the petitioners in the said writ petition for promotion to the post of Assistant Accountant within a period of 2 months from the date of the order.

11. In pursuance to the said direction issued by this Court, eighteen Junior Clerks/ Typists, nine of them were the petitioners in Writ Petition No.7737(SS) of 2005, who had completed 14 years of service, were promoted to the post of Assistant Accountant with effect from 2008 to 2010, and were given higher pay scale of Rs.4500-7000/-, as per the recommendation of the pay committee (1997-98), with effect from the date of their respective promotion.

12. The petitioners are claiming higher pay scale on the basis of Government Order dated 20.01.2006 on the post of Assistant Accountant. Under the said Government Order, pay scale of the Assistant Accountant has been recommended Rs.4500-7000/- instead of Rs.4000-6000/-.

13. From the impugned order, it is evident that the petitioners have been promoted only in the year 2008 to 2010 to the post of Assistant Accountant. The petitioners cannot claim higher pay scale of Rs.4500-7000/- with retrospective effect when they were not promoted to the said post. They have been given higher pay scale of Rs.4500-7000/- from the date of promotion.

14. In view thereof, I do not find that impugned order suffers from any illegality, which requires this Court to interfere with the impugned order.

15. This petition being devoid of merit and substance, is hereby ***dismissed***.

(Dinesh Kumar Singh, J.)

Order Date :- 23.5.2023/prateek