

Court No. - 8

Case :- WRIT - A No. - 4115 of 2023

Petitioner :- Jai Prakash Vishwakarma

Respondent :- State Of U.P. Thru. Prin. Secy. Revenue Civil Secrett. Lko. And 3 Others

Counsel for Petitioner :- Shrawan Kumar, Chunnu Lal

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel appearing for the petitioner and learned Additional Chief Standing Counsel appearing for the State.
2. Present petition under Article 226 of the Constitution of India has been filed impugning the order dated 29.03.2023 passed by District Magistrate, Bahraich in compliance of the judgment and order dated 02.02.2023 passed by a coordinate Bench of this Court in Writ Petition No.5287(SS) of 2016 filed by the petitioner.
3. District Magistrate, Bahraich has passed a very detailed and well considered order in respect of petitioner's claim for granting him benefit of 1st, 2nd and 3rd A.C.P. Scheme.
4. Petitioner's service record is required to be taken note of. The petitioner was initially posted as Consolidation Lekhpal from 07.07.1969 to 30.04.1975, and from 01.05.1975 to 31.12.1976, he was posted as Collection Amin and from 06.08.1977 he was posted as Lekhpal (Revenue) till his retirement. The petitioner got retired on 31.12.2009.
5. The petitioner was placed under suspension by Sub Divisional Magistrate, Bhinga vide order dated 15.01.1983. Vide order dated 24.05.1983 he was given censure entry and, thereafter, he was reinstated in service. The petitioner was caught red handed on 11.01.1991 by Vigilance Unit of Faizabad. The petitioner was thereafter suspended vide order dated 18.01.1991. Thereafter vide order dated 03.07.1992 the petitioner was reinstated in service. His reinstatement was subject to final report of the Vigilance Department.
6. The petitioner was an accused in FIR registered at Case Crime No.8 of

1991, and he was convicted by Additional Sessions Judge/Special Judge, PC Act, Court No.5, Gorakhpur under Section 7 Prevention of Corruption Act/ 34 IPC, 13(1)D, 13(2) of the Prevention of Corruption Act, 120B IPC, Police Station Kotwali Nagar, District Bahraich vide judgment and order dated 13.10.2019.

7. Strangely enough order of conviction and sentence was not entered in service book of the petitioner. The petitioner was again placed under suspension vide order dated 10.05.1995, and, thereafter, he was reinstated in service vide order dated 08.12.1995. The petitioner was again placed under suspension by the Sub Divisional Magistrate Mahsi vide order dated 16.10.2001, and vide order dated 1/2.01.2003, the petitioner was removed from service.

8. Against the said order of removal from service passed by S.D.M. Mahsi, the petitioner filed an appeal before the District Magistrate, Bahraich.

9. District Magistrate Bahraich vide order dated 25.08.2006 dismissed the appeal of the petitioner. Thereafter, the petitioner approached U.P. Public Service Tribunal.

10. U.P. Public Service Tribunal vide order dated 2.04.2009 also dismissed the claim petition and maintained orders passed by the S.D.M. and District Magistrate.

11. The petitioner thereafter filed a Writ Petition No.1876 of 2009 before this Court. This Court vide judgment and order dated 10.10.2012 set aside the orders passed by the S.D.M. and Public Service Tribunal and directed for initiating fresh enquiry against the petitioner.

12. In compliance of the judgment and order dated 10.10.2012 passed by this Court, departmental proceedings started against the petitioner and the S.D.M. again vide order dated 28.01.2013 maintained the order of removal of the petitioner from service.

13. Against the said order dated 28.01.2013 passed by the S.D.M., Mahsi, the petitioner filed an appeal before the then District Magistrate, Bahraich.

14. The petitioner perceived delay in disposal of the appeal by the District Magistrate, filed a writ petition before this Court being Writ Petition No.4171(SS) of 2014 and this Court vide judgment and order dated 12.08.2014 directed the District Magistrate to pass order on the appeal /representation of the petitioner within a period of 2 months in accordance with law.

15. The District Magistrate magnanimously vide order dated 01.11.2014 set aside the order passed by Sub Divisional Magistrate dated 28.01.2013 whereby the petitioner was removed from service and he was directed to be reinstated in service with effect from 02.01.2003. However, the District Magistrate was considerate towards the Government as well inasmuch as he directed that except for the payment of salary for this period i.e. from 02.01.2003 to 31.12.2009 on the principle of 'No Work No Pay' and it was directed that the petitioner would be entitled for all service benefits.

The District Magistrate also clarified that this period i.e. from 02.01.2003 to 31.12.2009 would be treated as the petitioner being in service and it would be counted for pensionary benefit of the petitioner.

16. This Court vide judgement and order dated 02.02.2023 directed the petitioner to file a representation before the District Magistrate and the said representation was decided vide impugned order.

17. One of the conditions for granting A.C.P. is satisfactory service rendered by an employee. Petitioner's checkered service career would disclose that the petitioner's service was anything but satisfactory and, therefore, District Magistrate vide impugned order dated 29.03.2023 has rejected the claim of the petitioner for grant of A.C.P. I do not find any ground to interfere with the well reasoned impugned order inasmuch as service of the petitioner was wholly tainted and blemished. It was anything but satisfactory.

18. In view thereof, I do find no merit in the petition, which is hereby **dismissed.**

(Dinesh Kumar Singh, J.)