

Court No. - 8

Case :- WRIT - A No. - 4193 of 2023

Petitioner :- Dayawant Singh And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Panchayati Raj Lko. And Another

Counsel for Petitioner :- Nagendra Bahadur Singh

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. Heard.

2. This petition, under Article 226 of the Constitution of India, seeks the following reliefs:

"(i) Issue a writ, order or direction in the nature of mandamus commanding the opposite parties to count the previous services of the petitioner rendered in ATL for pensionary and other consequential benefits.

(ii) Issue a writ, order or direction.....

(iii) Award the cost....."

3. The issue, involved in the present petition, is squarely covered by the Full Bench decision of this Court dated 18th May, 2023 passed in Writ-A No.2001647 of 2015.

4. The questions, for consideration before the Full Bench, were as under:-

"(i) Whether the Division Bench judgments in the case of Shankatha Prasad Mishra (surpa); Hridayesh Dayal Srivastava (surpa); Mirtuyanjay Prasad Singh (surpa); Keshav Ram Pandey (supra) and State of U.P. and others versus Amar Pal Singh, [Special Appeal (Defective) No.646 of 2016 decided on 25.10.2016] have correctly held that the benefit of past services rendered by retrenched employees of Auto Tractors Limited, who have been subsequently absorbed in government service, such as the petitioner, would count towards their qualifying service for purposes of calculation of retiral dues payable by the State Government?

(ii) Whether a retrenched employee of Auto Tractors Limited such as the petitioner, who got absorbed in State Government Service subsequently as per the relevant rules known as the Uttar Pradesh Absorption of Retrenched Employees of Government or Public Corporations in Government Service Rules 1991 are entitled to count their previous services rendered by them under the erstwhile employer i.e. the Auto Tractors Limited, for calculation of qualifying service for purposes of retirement benefits under the U.P. Retirement Benefit Rules 1961 and other ancillary rules and Government Orders in this regard as also Government Orders dated 11.11.1993 and 10.07.1998 as modified vide Government Order dated 28.12.2001? "

"(iii) Whether Division Bench judgment of this Court in the case of State of U.P. versus Ram Shanker Gupta passed in Special Appeal (Defective) No. 553 of 2015 decided on 27.11.2015 is in conflict with the earlier decisions by Coordinate Benches rendered in the case of Shankatha Prasad Mishra (surpa); Hridayesh Dayal Srivastava (surpa); Mirtuyanjan Prasad Singh (surpa); Keshav Ram Pandey (supra) and State of U.P. and others versus Amar Pal Singh, [Special Appeal (Defective) No.646 of 2016 decided on 25.10.2016] or not? If so, which of the two sets of Division Bench judgment lays down the law correctly with regard to question No.2 as rephrased by us herein above."

5. Vide the judgment and order 18th May, 2023, the Full Bench has answered the said questions as under:-

"(i) The Division Bench judgments in the cases of Shankatha Prasad Mishra (surpa); Hridayesh Dayal Srivastava (surpa); Mirtuyanjan Prasad Singh (surpa); Keshav Ram Pandey (supra) and State of U.P. and others versus Amar Pal Singh do not lay down the law correctly on the question of counting of past services rendered by retrenched employees of ATL who have been subsequently absorbed in Government service, for the purposes of qualifying service for calculation of retiral dues payable by the State Government. They are not good law.

(ii) Retrenched employees of ATL such as the petitioner who got absorbed in the Government service subsequently as per the Rules known as Uttar Pradesh Absorption of Retrenched Employees of Government or Public Corporations in Government Service Rules, 1991 are not entitled to count their previous services rendered by them under the erstwhile employer i.e., Auto Tractors Limited for computation of qualifying service for purposes of retirement benefits under the U.P. Retirement Benefits Rules 1961 and other ancillary rules and Government Orders in this regard as also the Government Order dated 11.1.1993 and in fact the Government Order dated 10.07.1998 as modified on 28.12.2001 is not applicable to such employees.

(iii) The Division Bench judgment in the case of Ram Shanker Gupta (supra) is in conflict with the earlier decisions by Coordinate Benches in the cases of Shankatha Prasad Mishra (surpa); Hridayesh Dayal Srivastava (surpa); Mirtuyanjan Prasad Singh (surpa); Keshav Ram Pandey (supra) and State of U.P. and others versus Amar Pal Singh. It is the decision in Ram Shanker Gupta (supra) which lays down the law correctly and for the reasons already discussed, the other decisions do not lay down the law correctly on the subject with regard to question no. (ii). "

6. In view of above, I find that nothing survives in the present petition, which is hereby **dismissed**.

[D.K. SINGH, J.]

Order Date :- 30.5.2023 MVS/-