

Court No. - 20

Case :- WRIT - A No. - 20415 of 2016

Petitioner :- Sumitra Devi

Respondent :- State Of U.P. Thru Prin.Secy.Medical Edu.Civil Sectt.And Ors.

Counsel for Petitioner :- Ravi Shanker Singh

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

Heard learned counsel for the petitioner, learned State counsel as well as learned counsel for opposite parties.

The present petition has been filed seeking a direction to opposite parties for regularization of her services on the post of sweeper as a class 4 employee with consequential service benefits.

It has been submitted that the petitioner was initially engaged in service as part-time sweeper with the opposite party no.4, i.e. Medical Officer In-charge, Government Ayurvedic Hospital, Garwara, Pratapgarh and has continued in the same capacity although subsequently full time work was being taken by her as was being rendered by substantively appointed sweepers. It has been submitted that the petitioner is therefore entitled for regularization in service in terms of Regularization Rules of 2001.

It has also been submitted that one Abdul Aziz, who is similarly situated as the petitioner has filed Writ Petition No.1285 of 2003 (Service Single), in which interim directions were issued on 29.11.2004 whereby opposite parties were directed to pay a minimum of scale to him. It is submitted that the said person has been regularized vide order dated 25.11.2010 with effect from 22.08.2005 in the pay scale of Rs.2550-3200 per month due to which the aforesaid writ petition was disposed of in terms of the interim order vide order dated 05.05.2014. It is submitted that since petitioner is similarly situated to the aforesaid person, the opposite parties may be directed to consider the claim of the petitioner for regularization with consequential service benefits and minimum of pay scale granting parity with the said person.

Learned State counsel, however, submits that since addressing the petitioner's demands would entail factual aspects, the

concerned party may be directed to take a decision thereupon.

Considering the submissions advanced by learned counsel for the parties, and upon perusal of material available on record, it is, therefore, directed that the petitioner submit a fresh representation with regard to her grievances pertaining to regularization and grant of minimum of pay scale for the post of sweeper, to the opposite party no.2, i.e. Director Ayurvedic and Unani Services Uttar Pradesh, 6th Floor, Indira Bhawan, Ashok Marg, Lucknow. In case, such representation is made, the same shall be considered and decided in accordance with law by a reasoned and speaking order, within a period of eight weeks from the date the representation is received. The said authority shall particularly advert to benefits granted to the said person, namely, Abdul Aziz and in case the petitioner is similarly situated as the aforesaid person, benefits granted to him shall also be available to the petitioner in accordance with law.

At this stage, learned counsel for the petitioner submits that even till today, the petitioner is being paid an honorarium of Rs.25/- per month, which amounts to *begaar* and is therefore prohibited by Article 23 of the Constitution of India.

In view of such submission being made, it is directed that the opposite parties shall ensure payment of at least minimum wages to the petitioner till the petitioner's representation is decided.

With the aforesaid observations, the petition stands disposed of.

Order Date :- 20.11.2023

Manoj K.