

Court No. - 8

Case :- WRIT - A No. - 4404 of 2023

Petitioner :- Kaushal Kishore

Respondent :- State Of U.P. Thru.Secy. Rural Development,Lko. And 5 Others

Counsel for Petitioner :- Kshitij Mishra,Abhinav Trivedi,Eshita

Bhasin,Ramendra Kumar Yadav

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 17.03.2023 whereby petitioner's claim for change of date of regularization from 11.01.2013 to 19.07.1996 has been rejected by the Executive Engineer, Rural Engineering Department, Barabanki Division, in compliance of the order dated 19.01.2023 passed in Writ A No.4495 of 2020 filed by the petitioner.

Operative part of the order dated 19.01.2023 would read as under:-

"Heard learned counsel for petitioner and learned standing counsel for State.

Petitioner has approached this Court claiming regularization w.e.f. 19.07.1996 instead of 29.01.2013, as persons junior to the petitioner are regularized from the said date and also for grant of A.C.P. and other consequential benefits.

At the very initial stage learned counsel for petitioner submits that grievance of petitioner would be sufficiently met in case representation of petitioner for the said purposes is considered and decided in a time bound manner.

Learned standing counsel has no objection to the same.

In view thereof, petitioner is permitted to make a fresh detailed representation to respondent no.6 Executive Engineer, Rural

Engineering Department Prakhanda, Barabanki, raising all his grievance, annexing therewith a copy of this writ petition along with annexures and all the documents in support of his claim within a period of two weeks from today along with a certified copy of this order.

In case such a representation is moved by petitioner, respondent no.6 shall consider and decide the same in accordance with law by a reasoned and speaking order within a period of two months from the date a certified copy of this order along with representation is placed before him.

It is made clear that this court has not applied itself on the merits of the case and all questions are left open to be considered and decided by the competent authority in accordance with law.

With the aforesaid directions, the writ petition is disposed of."

3. This is 4th writ petition filed by the petitioner. Petitioner's services got regularized with effect from 29.01.2013. The petitioner was promoted to the post of Senior Assistant thereafter and demitted office on 31.05.2022 on attaining the age of superannuation. The petitioner never challenged the date of his regularization i.e. 29.01.2013 and after 7 years from the date of regularization dated 29.01.2013, the petitioner filed Writ A No.4495 of 2020 claiming that he should be treated to have been regularized with effect from 29.07.1996.

4. The competent authority has still considered the case of the petitioner in compliance of the order passed by this Court on 19.01.2023 in Writ A No.4495 of 2020. It is said that the decision was taken on 11.01.2013 to regularize the service of work-charge employees, who had been working for 29.06.1991 after considering the case by the committee constituted for the said purpose. The petitioner and others got regularized in respect of supernumerary posts created for the said purpose. The petitioner has been seeking his regularization with effect from 19.07.1996 when there was no post which was created for regularization. In view thereof, representation of the petitioner was rejected vide impugned order dated 17.03.2023.

5. Petitioner's claim for regularization has been considered after Government sanctioned a supernumerary post, and he was regularized with effect from 29.01.2013. The petitioner never challenged said order of regularization till filing the writ petition in 2020. This Court finds impugned order is justified and in accordance with law inasmuch as the petitioner cannot claim regularization if there was no post available. It is not in dispute that the petitioner got regularized only against the supernumerary post created by the Government.

6. Dismissed.

(Dinesh Kumar Singh, J.)

Order Date :- 31.5.2023
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