Court No. - 8

Case :- WRIT - A No. - 4551 of 2022

Petitioner :- Laxmi Narayan Dwivedi
Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And 5 Others
Counsel for Petitioner :- Awadhesh Kumar Singh
Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. Awadhesh Kumar Singh, learned counsel for the petitioner, as well as Mr. Sandeep Sharma, learned Standing Counsel for the respondents-State Authorities.

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 CERTIORARI thereby quashing the impugned order dated 11.03.2022 passed by the opp. Party no. 2 and issued through letter no.4526/F-702/Pra.Vi.Da/2022 dated 12.03.2022 contained as ANNEXURE NO. 1 to this writ petition.*
>
> *ii. Issue a writ, order or direction in the nature of MANDAMUS thereby commanding the opp.parties to provide the duty to the petitioner on the post of PRD (Prantiya Rakshak Dal) and pay him honorarium as is being paid to the other members of Prantiya Rakshan Dal.*
>
> *iii. Any other order.....*
>
> *iv. Allow ....."*

3. Learned counsel for the petitioner submits that in similar circumstance, this Court has disposed of the Writ Petition Service Single No.12261 of 2021 vide order dated 07.10.2021.The order dated 07.10.2021 reads as under:-

> *" 1. Heard.*
>
> *2. By means of this petition, the petitioner has prayed following reliefs:-*
>
> *(i) Issue a writ, order or direction in the nature of CERTIORARI thereby quashing the impugned order dated 09.03.2021 passed by the Opp. Party no.2 contained as ANNEXURE NO.1 to this writ petition.*
>
> *(ii) Issue a writ, order or direction in the nature of MANDAMUS thereby commanding the opp. parties to make only feeding of the*

name of the petitioner on the basis of the earlier verification and on the basis of the departmental list 443 where the name of the petitioner is mentioned at serial No. 239, and petitioner may provide duty so that the petitioner could survive his family life.

3. This is the second writ petition being preferred for the same cause of action. The earlier writ petition being Writ Petition No. 2399 (Service Single) of 2021 (Kapil Dev Tiwari Vs. State Of U.P.Thru.Prin.Secy.Home & Ors.) was disposed of by this Court vide order dated 28.01.2021 in the following manner:-

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

Present writ petition is filed by the petitioner for the following primary relief:-

"i. issue a writ, order or direction in the nature of MANDAMUS thereby commanding the Opp. Parties to make online feeding of the name of the petitioner on the basis of earlier verification and on the basis of departmental list 443 where the name of the petitioner is mentioned at serial No.239 and provide duty to the petitioner so that the petitioner could survive his and his family life."

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.2 Director General Provincial Guard Team/Development Team and Youth Welfare Uttar Pradesh, Lucknow, 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.2 shall consider and decide the same in accordance with law by a reasoned and speaking order within a period of six weeks 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"

4. In pursuance of the said order, the petitioner had filed the representation before the Director General Provincial Guard Team/Development Team and Youth Welfare Uttar Pradesh, Lucknow. The petitioner's prayer for giving him work and paying honorarium has been rejected on the ground that the budget was issued for training of 137 personnel, however, the petitioner's name was found at

serial no. 138 and the petitioner could not make available his training certificate and therefore, he cannot be assigned the duty of Prantiya Rakshak Dal.

5. Learned counsel for the petitioner, however, submits that petitioner has rendered his services for 9 long years continuously. If the petitioner was not trained, the respondent should not have been given him duty. He further submits that the petitioner has lost his training certificate and therefore, he could not produce his training certificate. Learned counsel for the petitioner further submits that even if, the petitioner does not have training certificate rendering long 9 years of service would be enough to treat him as trained personnel. Learned counsel has placed reliance upon the order passed by this Court in Sadhna Kumari (Smt.) Vs. State of U.P. and others reported in (2007) 1 UPLBEC 120 and submits that if the person has not obtained employment on the basis of any fraud or in a fraudulent manner and, he has rendered long service, though he may not be fully qualified for the said post, the services should not be terminated on the ground that the said person does not possess the requisite qualification.

6. I have considered the submissions advanced by learned counsel for the petitioner as well as learned counsel for the respondents.

7. Considering the fact that the petitioner has rendered 9 years of long services with Prantiya Rakshak Dal and his work and conduct was not found unsatisfactory at any point of time and no complain whatsoever, was received against him, at this stage, dispensing with his service, would be inequitable. Even, if the petitioner has not been able to produce his training certificate, since he has rendered 9 years long services with the department, it would be appropriate to direct the respondents to give the duty to the petitioner if there is work and pay him honorarium as is being paid to the other members of Prantiya Rakshak Da.

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

4. The learned counsel for the petitioner prays that the present petition may also be disposed of to which the learned Standing Counsel has no objection.

5. Hence, this writ petition is **disposed of in the same terms as Writ Petition Service Single No.12261 of 2021 was disposed of.**

[D.K. SINGH, J.[

Order Date :- 7.7.2023
MVS/-

Digitally signed by :-
MANOJ VIKRAM SINGH CHAUHAN
High Court of Judicature at Allahabad,
Lucknow Bench