

Chief Justice's Court

Case :- SPECIAL APPEAL No. - 364 of 2010

Appellant :- Hari Prasad Singh And Ors. 1097 S/S1991

Respondent :- State Of U.P.Through Chief Secy. U.P.Govt.
Lko.And Ors.

Counsel for Appellant :- Anurag K. Singh

Counsel for Respondent :- C.S.C.,P.K.Sinha,Shobhit Narain
Shukla

Hon'ble Pritinker Diwaker,Chief Justice

Hon'ble Rajan Roy,J.

Heard Sri Anurag K. Singh, learned counsel for the appellant and the learned Standing Counsel for the State.

This is a special appeal filed against the judgment and order dated 31.03.2010 passed in Writ Petition No.1097 (S/S) of 1991 [Uttar Pradesh Ganna Paryavekshak (Cane Supervisor) Sangh & Others Vs. State of U.P. & Others].

The appellants herein were initially appointed as Ganna Gram Sewak in a scheme in which grant was received from the State Government by the U.P. Sugarcane Corporation. They claim parity with cane supervisors of the State Government working under the supervision of the Cane Commissioner, Uttar Pradesh in the matter of pay scale etc. Some of the persons similarly situated to the petitioners filed a Claim Petition bearing No.276 of 1998 and the said claim petition was dismissed so far as claim of the petitioners therein and similarly situated persons was concerned with regard to their claim to be treated as government servants, but, it was held in the same claim petition that they shall be treated at par with the employees of Sugarcane Corporation. The said judgment of the tribunal was challenged in the writ petition no.1931 (S/B) of 2008 and the said writ petition was dismissed upholding the judgment of the Public Services Tribunal. Thereafter, Board of Directors of the Sugar Cane Corporation, in pursuance to the aforesaid judgment of the Tribunal and the decision of this Court, proceeded to take a decision in its 214th meeting to absorb the petitioners and other similarly situated persons in the Sugar Corporation under the Wage Board like other similarly situated employees of the Corporation in parity of their claim and status. The petitioners being aggrieved by the said action and claiming parity with cane supervisors of the State Government filed Writ Petition No.1097 (S/S) of 1991 through their association. The

said writ petition was dismissed on 31.03.2010, which has been challenged in this appeal.

We have perused the said judgment and find that the claim of the petitioners for parity in pay scale with Cane Supervisors under the State Government has been dismissed. The Sugarcane Corporation did not have any work for the Ganna Gram Sewak / Cane Supervisor and the sugar mills run by the Corporation were running in losses. The Corporation had already taken a decision looking to its financial constraints. The Writ Court has opined that the judgment of the Public Services Tribunal had become final in respect of similarly situated persons, the writ petition against the same having been dismissed by a Division Bench of this Court. The Corporation had not committed any illegality in absorbing the petitioners in its services under it and by placing them in Wage Board in parity with other employees of the Corporation. The Writ Court opined that the benefit of G.O. dated 30.03.1994 which was meant for Ganna Gram Sewak and Cane Supervisor of the State Government or those who had been absorbed in the services of the State Government, was not applicable to the petitioners who are appellants herein. The Writ Court has opined that once the claim of persons similarly situated with the petitioners for absorption in the State Government had been rejected and the same was upheld by the High Court then the Sugarcane Corporation has committed no illegality in placing them in the Wage Board. It accordingly did not find any merit in the claim of the appellants petitioners.

Others similarly situated to the petitioners herein, who had filed the earlier claim petition, got the benefit of absorption as offered to them in pursuance to the decision taken by the Board of Directors of Uttar Pradesh Sugarcane Corporation in its 214th meeting and have also got the consequential benefits. The appellants herein, however, challenged the said judgment dated 31.03.2010 by means of this appeal and an interim order was passed extending the date for submission of option for absorption inspite of it they did not exercise their option to be absorbed.

On merits of the matter, we find that the judgment of the Writ Court does not suffer from any error because the petitioners did not have any indefeasible right to be treated at par with the employees of State Government and inspite of having an opportunity they had not opted to be absorbed in the Sugar Corporation.

Considering the nature of the initial appointment and in the circumstances discussed above, the best we can do is to leave it

open for the petitioners to pursue the matter with U.P. Sugar Corporation with regard to their absorption and consequential benefits accruing from the decision taken in the 214th meeting of the Board of Directors if it is otherwise permissible in law.

At this stage, Sri Anurag K. Singh, learned counsel for the appellants submits that because of the interim order, they have not been paid salary and wages for the period they actually worked. If it is so then their claim shall be considered and decision may be taken in this regard within two months after verification of the fact.

We further make it clear that disposal of this appeal and the judgment of the Writ Court shall not come in the way of the U.P. Sugar Corporation if it wants to extend any benefit to the petitioners as per its decision taken in 214th meeting of the Board.

Subject to this, but without interfering with the judgment of the Writ Court, we **dispose of** this appeal.

Order Date :- 17.5.2023

Saurabh

(Rajan Roy,J.) (Pritinker Diwaker,C.J.)