

Court No. - 8

Case :- WRIT - A No. - 15475 of 2019

Petitioner :- Sanjeev Kumar Amd 3 Ors.

Respondent :- State Of U.P. Thru Prin.Secy. Finance Lucknow And Ors.

Counsel for Petitioner :- Mohd. Mansoor, Mohammad Danish

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh, J.

1. Heard Shri Mohd. Mansoor, learned counsel for the petitioner and Shri V.K. Vajpayee, learned Standing Counsel appearing for the State-respondents.

2. The present petition under Article 226 of the Constitution of India has been filed seeking following directions from this Court:-

"(i) Issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 12.04.2019 passed by the Opp. Party No.3/Director Internal Audit and Accounts, Lucknow, as contained in Annexure No.01 to the writ petition.

(ii) Issue a writ, order or direction in the nature of Mandamus commanding the opposite Party No.03 to consider the case of the petitioners for promotion on the post of Account with effect from the date when such promotions were made on the basis of the D.P.C. dated 08.02.2003.

(iii) Issue a writ, order or direction in the nature of Mandamus commanding the Opposite Party No.03 to notionally promote the petitioners on the post of Assistant Accountant as soon the petitioners completed two years of service as Assistant Accountant as has been done in the case of other Assistant Accountants.

(iv)...

(v)..."

3. The petitioners were initially appointed on the post of Assistant Accountant, who have been promoted to the post of Accountant in the year 2004. The petitioners had earlier approached this Court by filing a writ petition bearing Writ Petition No.1248 (S/S) of 2013 (Sanjeev Kumar and Others vs. State of U.P. and Others). The said writ petition was disposed of by this Court vide order dated 10.01.2019. The operative part of the order dated 10.01.2019 would read as under:-

"...

The writ petition, as such, is allowed.

The opposite parties are directed to consider the petitioners for promotion on the post of Accountant with effect from the date when such promotions were made on the basis of the Departmental Promotion Committee dated 18.2.2003 i.e. the promotions made in the month of May, 2001. Necessary exercise shall be carried out expeditiously within a period of three months from the date a certified copy of this order is placed before the competent authority and appropriate orders shall be issued accordingly."

4. In compliance of the said direction, the representations of the petitioners were considered for promotion from the back date i.e. from May, 2001.

5. This Court fails to understand that what was the basis for claiming promotions by the petitioners from the back date i.e. from May, 2001 as no one junior to the petitioners could be promoted before them. The criteria for promotion to the post of Accountant is seniority subject to rejection of unfit.

6. Shri V.K. Vajpayee, learned Standing Counsel for the State-respondents submits that the promotions earlier made on the basis of seniority list were published in the year 1988. The petitioners were not even born in the service in the year 1988 as they have entered into service in April, 1999 and when in 2004, the next batch was promoted to the post of Accountant, the petitioners also got promoted according to their place in the seniority list.

7. Considering the aforesaid facts, I find no ground to interfere with the impugned order or grant writ of mandamus for promoting the petitioners with retrospective date i.e. from May, 2001.

8. In view thereof, the present petition is hereby **dismissed**.

(Dinesh Kumar Singh, J.)

Order Date :- 6.7.2023

Piyush/-