

Court No. - 1

Case :- WRIT - A No. - 2001669 of 2014

Petitioner :- Ajay Kumar Anand

Respondent :- Uttar Pradesh Public Services Tribunal
Lucknow And Ors.

Counsel for Petitioner :- Savita Jain

Counsel for Respondent :- C.S.C.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Om Prakash Shukla,J.

1. Heard Ms. Savita Jain, learned counsel for the petitioner and Shri V.P. Nag, learned Standing Counsel for State-respondents.

2. By means of the instant writ petition, the petitioner has sought the following reliefs:-

"I. To issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 16.09.2014 passed by the State Public Services Tribunal, Indira Bhawan Lucknow in Claim Petition No.1782/2012 (A.K. Anand Vs. State of U.P. and others), the true copy of which is contained as Annexure No.1 to the writ petition.

II. To issue a writ, order or direction in the nature of mandamus commanding the Opp. Parties to give the benefit of pay scale in pay band IV grade pay 8700 to the petitioner in accordance with Government Order dated 04.05.2010 as well as Government Order dated 20.05.2011 with all consequential benefits."

3. The operative part of the judgment dated 30.11.2023 rendered in Special Appeal Defective No.843 of 2023 reads as under:-

"(23) Since the batch of writ petitions has been allowed by the learned Single Judge, wherein there is a reference in respect of Special Leave Petitions filed by the State, taking the aid of the aforesaid order as also the order passed in Special Appeal Defective No. 71 of 2023, where a Co-ordinate Bench of this Court granted liberty to file review petition, the State Government filed a Review Petition which too was dismissed on merits with costs of Rs.10,000/-.

(24) In the instant intra-Court appeal, the appellants have raised a plea

that as per Government Order dated 13.12.2011, the Assistant Engineers/Executive Engineers are not entitled for upgradation of Rs.8,700/- Grade Pay. In this regard, it may be apt to mention here that a Co-ordinate Bench of this Court has already allowed the writ petition No. 578 (SB) of 2012, Birendra Kumar Maurya and another v. State of U.P. and others and quashed the aforesaid Government Order dated 13.12.2011.

(25) Neither the learned Additional Chief Standing Counsel nor the learned Counsel for the respondent/petitioner has brought on record to show that the aforesaid order has been challenged by any aggrieved party. Once the discrimination meted out to the respondent was disapproved by this Court as well as by the Apex Court, no scope has been left for us to take a different view.

(26) Considering all these aspects of the matter, we are of the firm opinion that the State is merely seeking to re-open a decided matter through the instant Appeal, although neither any illegality nor infirmity has been pointed by the learned Additional Chief Standing Counsel either in the order passed in the bunch of writ petitions or on the review petition.

(27) It is made clear that since it is a decided matter, only relevant facts and law have been considered.

(28) For all the reasons stated above, the intra-Court appeal filed against the impugned orders passed by the learned Single Judge lacks merit and is hereby dismissed.

(29) There shall be no orders as to costs. "

4. According to learned counsel for the petitioner, occasion to file a writ petition arose to him for the reason that the issue was squarely covered by Division Bench of this Court in Writ Petition No.236 (SB) of 2013; Ashok Kanojia versus State of U.P. and others, which was decided vide judgment dated 28.01.2014 and the Division Bench held that the petitioners therein are entitled for revised Pay Scale of Rs.37400-67000 with Grade Pay of Rs.8700/-. On the strength of judgment passed by the Division Bench, several other claims of the similarly situated persons have also been upheld and in a recent judgment rendered by this Court in Special Appeal Defective No.843 of 2023 decided on 30.11.2023.

5. The benefit in the case of Ashok Kanojia (supra) as well as judgement rendered by this Court in Special Appeal Defective No.843 of 2023 being available to the petitioner does not necessitates any further consideration by the authorities as was directed by the State Public Service Tribunal, Lucknow. The benefit of the judgments rather is bound to be implemented at par. Insofar as the present petitioner is concerned, it is ordered accordingly.

6. The State authorities are directed to grant equal benefit of the judgment rendered in Ashok Kanojia (supra) as well as the judgment in Special Appeal Defective No.843 of 2023 to the present petitioner.

7. This exercise shall be completed not later than a period of four months.

8. The writ petition is, accordingly, **disposed of**.

(Om Prakash Shukla, J.) (Attai Rahman Masoodi, J.)

Order Date :- 12.12.2023
Shubhankar