

Court No. - 8

Case :- WRIT - A No. - 7505 of 2018

Petitioner :- Shailendra Kumar Singh And 8 Ors.

Respondent :- State Of U.P. Thru Prin.Secy.Revenue Civil Sectt.Lko.And Ors.

Counsel for Petitioner :- Pradeep Chandola,Abhishek Dwivedi,Mahendra Pratap Singh

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. Heard Shri Pradeep Chandola, learned counsel for the petitioners and Shri Manish Pratap Singh Chauhan, learned Standing Counsel appearing for the State-respondents.

2. The present petition under Article 226 of the Constitution of India has been filed seeking quashing of the order dated 03.01.2018 passed by the Commissioner and Secretary, Board of Revenue, Uttar Pradesh, Lucknow whereby the claim of the petitioners for granting them minimum of pay for the post of Driver (Class-IV) as per the recommendation of the 7th Pay Commission has been rejected.

3. Before filing the present petition, petitioner No. 5 to 9 namely-Shri Janardan Prasad Tripahti, Shri Onkar Nath Tewari, Shri Ram Adhar Sharma, Shri Satish Kumar Misra and Shri Rajesh Kumar Awasthi have already been regularized in the year 2017 in the Board of Revenue Department.

4. The petitioners were engaged on vacant post of Driver (Class-IV) in the Board of Revenue. Petitioner No.5 to 9 who have been regularized were engaged in the 1994-95 whereas petitioner No.1 to 4 namely-Shri Shailendra Kumar Singh, Shri Vijay Singh, Shri Raj Kumar and Shri Dharendra Pratap were engaged between 2003 to 2006.

5. The petitioners had approached this Court by filing writ petitions for regularization, however, the petitioners did not get any relief of regularization and only the direction was given that if selection is made for the posts of Driver, the petitioners should also be considered alongwith other eligible candidates in accordance with law.

6. The petitioners thereafter filed writ petitions such as Writ Petition No.7030 (S/S) of 2006 in which, this Court directed for granting them minimum of pay of Class-IV post. In pursuance to the various orders passed by this Court in writ petitions filed by the petitioners, the

petitioners were given the minimum of pay of Class-IV post as per the recommendation of 5th and 6th Pay Commission.

7. The 7th Pay Commission was made applicable to the employees of the State Government with effect from 01.01.2016, however, the petitioners were not given the benefit of minimum of pay as per the recommendation of the 7th Pay Commission.

8. Thereafter, the petitioners again approached this Court by filing Writ Petition No.17444 (S/S) of 2017. The said writ petition was disposed of by this Court vide judgment and order dated 09.10.2017. The operative part of the order dated 09.10.2017 would read as under:-

"In view of aforesaid, without entering into the merits of the case, the petitioners are permitted to move fresh representation to the opposite party No.3 within three weeks from today. In case the petitioners move representation, the same shall be decided by the opposite party No.3 by a speaking and reasoned order within a period of three months from the date of receipt of a certified copy of this order.

The writ petition is disposed of. "

9. In compliance of the said direction in the order dated 09.10.2017, the representations of the petitioners have been rejected for minimum of pay as per the recommendation of the 7th Pay Commission on the ground that as per the recommendation of the Pay Committee for implementation of the recommendation of the 7th Pay Commission with effect from 01.01.2016 no decision had been taken by the State Government for giving minimum of pay in respect of the Class-IV Daily Wager employees.

10. Shri Manish Pratap Singh Chauhan, learned Standing Counsel for the State-respondents submits that the Board of Revenue has written a letter to the State Government for providing the petitioners the benefit of minimum of pay as per the recommendation of the 7th Pay Commission vide letter dated 12.06.2017, however, no decision has yet been taken by the State Government and the decision is to be taken by the State Government only.

11. Considering the fact that the petitioners were paid minimum of pay as per the recommendation of the 5th and 6th Pay Commission in compliance of the orders passed by this Court in various writ petitions, in my view, the petitioners are also entitled for minimum of pay as per the recommendation of the 7th Pay Commission and thus, this writ petition is **allowed** so far it relates to petitioner No.1 to 4 and the same is **dismissed** so far it relates to petitioner No.5 to 9 who have already been regularized in the year 2017. The respondents are directed to pay petitioner No.1 to 4 minimum of pay of Driver (Class-

IV) as per the recommendation of the 7th Pay Commission from the date of filing of the present petition i.e. 13.03.2018.

12. Necessary arrears of payment of wages should be calculate in respect of petitioner No.1 to 4 and the same should be paid to them within a period of two months from today and they should be paid regular minimum of pay as per the recommendation of the 7th Pay Commission till they are in service.

(Dinesh Kumar Singh, J.)

Order Date :- 7.7.2023

Piyush/-