

Court No. - 8

Case :- WRIT - A No. - 26652 of 2017

Petitioner :- Sitaram Sharma

Respondent :- State Of U.P.Throu Prin.Secy.Home Deptt.Lko.And Ors.

Counsel for Petitioner :- Sameer Kalia,Srideep Chatterjee

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. Heard Sri Sameer Kalia, learned counsel for the petitioner and Sri Sandeep Chandra, learned Standing Counsel.
2. The present writ petition under Article 226 of the Constitution of India has been filed impugning the order dated 23.8.207 passed by the Superintendent of Police (Personnel)/In-charge, Inspector General of Police (Establishment), Uttar Padesh in compliance of the order dated 12.4.2017 passed by this Court in Writ Petition No.2638 (SS) of 2014, whereby the petitioner's claim for counting his services from the date of his selection has been rejected for reasons mentioned in the impugned order.
3. The petitioner was selected as direct recruit on the post of Sub-Inspector in the year 1981. The petitioner was sent for training in Police Training College, Moradabad. During training, the petitioner fell down from roof and sustained grievous injury. The petitioner was found unfit to remain in service and, therefore, vide order dated 11.4.1983 the petitioner was removed as a trainee.
4. Being aggrieved against the said order dated 11.4.1983, the petitioner filed Claim Petition No.343/V/HM/1988 before the State Public Services Tribunal. The said claim petition was finally decided in favour of the petitioner vide judgement and order dated 30.12.1994. The State challenged the said

judgement and order dated 30.12.1994 passed by the Public Service Tribunal in Writ Petition No.3805 (SS) of 1995. This Court passed an interim order dated 9.1.1996, which reads as under:-

"The petitioners are granted three weeks time to file rejoinder affidavit.

The petitioners are further directed to consider the case of the respondent no.1 for absorption on any post equivalent to the post of Sub-Inspector or Police in the Police Department considering his selection to the post of Sub-Inspector and after considering his physical deformity and medical fitness to other post. The petitioners are directed to consider the case of the respondent no.1 for absorption as indicated above and in case the respondent no.1 is not suitable, the petitioners would indicate the reasons in the rejoinder affidavit."

5. As is evident from the reading of the interim order, the State Government was directed to absorb the petitioner on any post equivalent to the post of Sub-Inspector or Police in the Police Department considering his selection on the post of Sub-Inspector and after considering the physical deformity and medical fitness to other post.

6. Prima facie, it appears that this Court did not agree with the finding of the State Public Services Tribunal that the petitioner was fit to remain in service as Sub-Inspector and, therefore, a direction was issued to absorb the petitioner on the post of Sub-Inspector or Police in the Police Department. In compliance of the said interim order dated 9.1.1996, the petitioner was appointed on 27.2.1996 on the post of Sub-Inspector (Ministerial) subject to the condition that he would have to clear the Stenography and Typing test and after the petitioner could qualify the Stenography and Typing test, he was given permanent employment on 10.5.1999. The writ petition filed by the State Government came to be dismissed on 15.7.2010 in default and again it got dismissed on 6.2.2017 in default.

7. From the facts as narrated, the petitioner suffered injury as he fell down from the rooftop and he became unfit, but because of the interim order passed by this Court, the petitioner could have been absorbed. Since the petitioner has been absorbed in different cadre i.e. Ministerial Cadre, now the petitioner cannot claim the benefit of all services, for which he was initially appointed and his services came to be terminated vide order dated 11.4.1983. The petitioner has been given all the benefits of service, in which he was absorbed in pursuance to the interim order dated 9.1.1996 passed by this Court. Therefore, the petitioner cannot claim for counting his services from the date of his initial appointment, which was terminated vide order dated 11.4.1993 inasmuch as the petitioner has not retired from the post of Sub-Inspector, but he has retired from the post of Sub-Inspector (Ministerial).

8. In view thereof, I do not find any ground to interfere with the present writ petition, which is hereby ***dismissed***. Interim order, if any, stands vacated.

9. However, the petitioner would be entitled for counting his services from the date of his absorption i.e. 27.2.1996 and not from the date of confirmation i.e. 10.5.1999.

Order Date :- 5.7.2023

Rao/-