

Court No. - 20

Case :- WRIT - A No. - 7076 of 2023

Petitioner :- Sanjay Kumar Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home
Deptt. Govt. U.P. Lucknow And 2 Others

Counsel for Petitioner :- Mohd. Ateeq Khan

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.

2. On 22.09.2023, the following order had been passed:-

"1. Heard learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties.

2. Petition has been filed challenging order dated 28.12.2022 and 25.07.2022 whereby petitioner's representation for opening of seal cover envelope and providing benefit of Government Order dated 28.05.1997 has been rejected.

3. It is submitted that earlier petitioner had filed Writ A No.14554 of 2022 seeking a direction to opposite parties for opening of seal cover envelope regarding recommendation made pertaining to petitioner for consideration of promotion on the post of Inspector. Said writ petition was disposed of vide order dated 02.11.2022 directing opposite parties to consider petitioner's claim in the light of case of Umesh Pratap Singh Versus State of U.P. & Ors., Writ A No.7917 of 2022 decided on 09.09.2022.

4. It has been submitted that by means of impugned order, opposite parties has indicated that petitioner would be eligible for consideration in terms of Government Order dated 28.05.1997 only after 05.05.2023 but no such consideration has yet been made.

5. With regard to aforesaid submissions, learned State counsel is granted two weeks' time to obtain instruction whether any exercise pertaining to grant of benefit of Government Order dated 28.05.1997 has been made or is contemplated after 05.05.2023.

6. List this case on 12.10.2023, as fresh."

3. In pursuance thereof, learned State Counsel has been provided written instructions dated 27.10.2023, which are taken on record and as per which, the opposite parties while quoting the Government order dated 28.05.1997 have indicated that under provisions of paragraph no. 10 of the aforesaid

Government order, petitioner's case would be submitted to the U.P. Police Recruitment and Establishment Board upon certain information being provided by petitioner.

4. Since petitioner's case is required to be considered in terms of Government order dated 28.05.1997, it does not stand to reason as to why information has been sought from the petitioner when such information should already be available with the department concerned.

5. The instruction do not indicate what information has been sought from the petitioner but at the same time since it is being indicated and admitted that petitioner is entitled for consideration for promotion in terms of paragraph no. 10 of the Government order dated 28.05.1997, the opposite party no. 3 is directed to forward petitioner's case for consideration for promotion in terms of the Government order dated 28.05.1997 within a period of four weeks from the date a certified copy of this order is produced before the said authority. On such forwarding of requisition, the Police Establishment Board shall take a final decision with regard to petitioner's promotion in terms of Government order dated 28.05.1997 within a further period of six weeks.

6. In view of aforesaid, the impugned order dated 28.12.2022 is quashed by issuance of writ in the nature of certiorari. Further writ in the nature of mandamus is issued commanding the opposite party no. 3.

7. Resultantly, the petition succeeds and is **allowed**. Parties to bear their own costs.

Order Date :- 31.10.2023

Satish