

Court No. - 8

Case :- WRIT - A No. - 6105 of 2019

Petitioner :- Dr. Vijay Kumar Saxena

Respondent :- State Of U.P. Thru Prin.Secy.Medical Health And Family And Ors.

Counsel for Petitioner :- Raj Kumar Verma,Gaya Prasad,Raj Kumar Verma

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. Heard learned counsel appearing for the petitioners and learned Additional Chief Standing Counsel appearing for the State.

2. Present petition under Article 226 of the Constitution of India has been filed for a direction to implement the order dated 25.04.2014 passed by the State Government in compliance of the judgment and order dated 29.11.2013 passed by this Court in Writ Petition No.1670(SB) of 2013.

Said writ petition was disposed of by following order:-

"Heard Sri Manish Mathur learned counsel for petitioner and the learned Additional Chief Standing Counsel for opposite party nos.1 & 2.

Looking into the nature of controversy involved in the writ petition, the petition is being finally disposed of at the admission stage.

Learned counsel for the petitioner submits that he is entitled to the benefit extended to certain other incumbents of the service to which the petitioner belongs, by the two office memorandums dated 06.02.2013 which have been annexed as Annexure No.7 and 8 to the writ petition. He submits that the case of the persons to whom the benefit has been extended for certain payments by the aforesaid two office memorandums dated 06.02.2013, is similar to that of the petitioner and, therefore, he is entitled to the same.

The petitioner has made a representation to the State Government dated 05.07.2013 which has been annexed as Annexure No.10 to the writ petition for redressal of his grievance.

Accordingly, the writ petition is finally disposed of with a direction to the State Government to consider and decide the representation preferred by the petitioner dated 05.07.2013 which has been annexed as Annexure No.10 to the writ petition within a period of six weeks from the date of production of a certified copy of this order along with a copy of representation as preferred to the State Government, contained in Annexure-10. The petitioner will be at liberty to make a fresh representation as well.

With the aforesaid observations, writ petition is finally disposed of."

2. After considering the case of the petitioner and orders passed in the case of similarly situated persons as such Dr. Ram Bharat Verma, Dr. Shreeprakash Vats and 42 other Medical Officers, the Government found

that the petitioner was also entitled for same relief as granted to Dr. Ram Bharat Verma, Dr. Shreeprakash Vats and 42 other Medical Officers, who were granted service benefits of the period of their *ad hoc* services rendered as Medical Officer from the date of their initial appointment on *ad hoc* basis i.e. 04.10.1990.

3. It has been said in the order passed by the Government on 25.04.2014 that the petitioner should also be given the benefit from the date of his appointment on *ad hoc* basis such as regular pay scale, arrears of salary and other consequential benefits. This would simply mean that the petitioner's *ad hoc* services should be counted as regular services for payment of salary, pension, gratuity etc.

4. Despite the said order, the petitioner has been treated to be in regular service only with effect from his date of regularization i.e. 15.11.2003 and not from 13.11.1990, when his appointment on *ad hoc* basis was made. The petitioner has been paid arrears of the salary. However, pension and gratuity have not been calculated during the *ad hoc* services. It appears that the petitioner was to be paid Gratuity of Rs.9.97 Lakh counting *ad hoc* services as regular services, however, later on *ad hoc* services rendered by the petitioner before regularization were not taken into account, and Rs.5,06,513/- has been deducted from the Gratuity amount of Rs.9,97,000/-.

5. Considering the aforesaid fact, I am of the view that the petitioner is also entitled for the same relief as has been granted to Dr. Ram Bharat Verma, Dr. Shreeprakash Vats and 42 other Medical Officers. His *ad hoc* services are to be counted as regular services and, therefore, deduction of Rs.5,06,513/- is not as per the order dated 25.04.2014. In view thereof, present petition is **allowed**. The respondents are directed to make payment of deducted Gratuity amount of Rs.5,06,513/-, and his pension should also be revised accordingly, taking into account *ad hoc* services rendered by the petitioner with effect from 13.11.1990 till 15.11.2003.

(Dinesh Kumar Singh, J.)

Order Date :- 25.5.2023
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