

Court No. - 20

Case :- WRIT - A No. - 7858 of 2023

Petitioner :- Pramod Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy./ Deptt. Of Horticulture And Food Processing And 2 Others

Counsel for Petitioner :- Vinod Kumar Shukla,Alok Kumar Pandey,Rakesh Singh

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

1. Heard learned counsel for the petitioner and learned State Counsel for opposite parties.
2. The petitioner, who is working as a daily wager, has approached this Court, claiming that he is getting minimum of pay scale as per recommendation of 6th Pay Commission, but now minimum of pay scales of regular employees stand revised as per recommendation of the 7th Pay Commission. The benefit of 7th Pay Commission is not being provided to the petitioner.
3. Learned counsel for the petitioner submits that the petitioner is being denied the minimum pay as per 7th Pay Commission Report on the ground that he is not entitled for regularization as per Regularization Rules of 2016 and he is not performing the same work as is being performed by regular employees.
4. Learned Standing Counsel, on the other hand, submits that since the petitioner is a daily wager employee he is not entitled to minimum pay scale in terms of the 7th Pay Commission Report.
5. The fact that the petitioner is getting minimum of pay scale as per 6th Pay Commission is not disputed. The only dispute was as to whether the petitioner is entitled for the benefit of 7th Pay Commission or not. Admittedly, the benefit of 7th Pay Commission is already granted to all the State Government employees including Class-IV employees of the respondent-department. Hence, as per the judgment of the Supreme Court in cases of 'Haryana

and another. Vs. Tilak Raj and others, (2003) 6 SCC 123, Sabha Shanker Dube Vs. Divisional Forest Officer and others., (2019) 12 SCC 297 and State of U.P. and others Vs. Putti Lal, (2006) SCC 337', the minimum of pay scale as provided to regular employees performing the same duties, is to be provided to the petitioner.

6. Since the benefit of 7th Pay Commission is already provided to State Government employees, the same cannot be denied to the petitioner. The ground taken in the impugned order that the petitioner is not entitled for regularization as yet has no concern with payment of minimum of pay scale. The question as to whether petitioner is performing the same duties or not is already considered earlier at the time minimum pay scale was granted to him.

7. This Court has already taken a similar view in its judgment and order dated 13.03.2022 passed Writ-A No.1803 of 2022; 'Indra Pal Vs. State of U.P. and Others'. A Special Appeal Defective No.44 of 2023 filed against the said order was also rejected by Division Bench of this Court by its judgment and order dated 03.02.2023. Hence, in the given facts and circumstances of the case, petitioner is also entitled to the benefit of the minimum of the pay scale which is being paid to regularly working employees of the same category performing the same work. In case regular employees are getting the benefit of 7th Pay Commission, petitioner is also entitled for the same.

8. In view thereof, the opposite parties are not justified in denying the minimum pay scale to the petitioner as per 7th Pay Commission Report.

9. Respondent no.2-Director Horticulture & Food Processing, U.P. Lucknow, is directed to pay minimum of the pay scale which is being paid to the regularly working employees performing the same work. Such an order shall be passed by respondent no.2 in favour of petitioner within a period of four weeks from the date a certified copy of this order is placed before him.

10. With the aforesaid directions, the writ petition stands allowed.

Order Date :- 11.10.2023

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