

Court No. - 20

Case :- WRIT - A No. - 8651 of 2023

Petitioner :- Brijesh Chandra Mani Tripathi

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Rural Development, Govt. U.P. Lucknow And 3 Others

Counsel for Petitioner :- Shobhit Mohan Shukla, Manoj Kumar Chaurasiya, Ravindra Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard Mr. Sobhit Mohan Shukla learned counsel for petitioner and learned State Counsel for opposite parties.
2. Petition has been filed challenging order dated 21st April, 2023 passed by Commissioner, Rural Development, U.P., Lucknow as well as the order dated 5th October, 2023 passed by State Government cancelling petitioner's absorption in state service. Also under challenge are the entire proceedings drawn against petitioner for cancellation of his absorption in pursuance to the impugned orders. Prayer has also been made for granting of service benefits like revision of pay on the basis of recommendation of 5th, 6th and 7th pay commission, arrears of pay, pay fixation, retiral benefits etc.
3. Learned counsel for petitioner submit that earlier petitioner had filed Writ A No. 231 (S/S) of 2024 against order of direction for regularization of petitioner's services, writ A No. 3205 of 2008 seeking benefits of recommendations of the 5th, 6th and 7th pay commission.
4. The aforesaid petitions were disposed of vide order dated 14th December, 2022 granting liberty to opposite parties to pass orders with regard to grievance of petitioner. It is submitted that impugned order have been passed but instead of considering the representation for grant of pay commission recommendations by means of impugned order dated 21st April, 2023, the petitioner's earlier absorption in state government services itself has been found to be faulty and by means of impugned order dated 5th October, 2023 passed by State Government, the same has been cancelled without affording any opportunity of hearing to petitioner on the said aspect.
5. Learned State Counsel has been provided written instructions on the aforesaid aspect vide letter dated 24th November, 2023 indicating reasons for having passed the order.

6. However upon consideration of submissions advanced and perusal of material on record, it is evident that so far as aspect of cancellation of petitioner's absorption in state services is concerned, neither any notice was issued to him earlier nor was afforded any opportunity of hearing prior to passing of impugned order on the aforesaid aspect.

7. In view of aforesaid, impugned orders dated 21st April, 2023 and 5th October, 2023 and hereby quashed by issuance of writ in the nature of Certiorari granting liberty to opposite party to pass fresh order with regard to aforesaid aspect regarding cancellation of petitioner's absorption in state services but only after affording opportunity of hearing and adverting to petitioner's reply on the same.

8. In case however it is found that petitioner was entitled to absorption in state government services, his grievance regarding implementation of the recommendation of 5th, 6th and 7th pay commission upon him shall also be considered.

9. Consequently the petition succeeds and is allowed. Parties to bear their own cost.

Order Date :- 28.11.2023
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