

Court No. - 7

Case :- WRIT - A No. - 9694 of 2023

Petitioner :- Vimla Arora

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Forest
Lko And 2 Others

Counsel for Petitioner :- Satish Singh, Saddam Ahamad Khan

Counsel for Respondent :- C.S.C., Rishabh Tripathi

Hon'ble Abdul Moin, J.

1. Heard learned counsel for the petitioner, learned Standing Counsel appearing for the respondents no. 1 and Shri Rishabh Tripathi, learned counsel appearing for respondents no. 2 and 3.

2. With the consent of learned counsel appearing for the contesting parties, the writ petition is being finally decided.

3. Instant petition has been filed challenging the order dated 25.10.2023, a copy of which is Annexure No. 1 to the petition. Further prayer is for a writ of mandamus commanding the respondents to grant the petitioner promotion from Assistant Grade-III to Assistant Grade-II notionally from the date of his entitlement i.e. 08.01.2002 in terms of Rule 16(3)(ii)(c) of Chapter - II of the Service Regulation of the Corporation framed under the U.P. Forest Corporation Act, 1974.

4. Bereft of unnecessary details, the contention of learned counsel for the petitioner is that the matter in issue is squarely covered by the judgment and order of this Court at Allahabad passed in **Writ-A No. 5819 of 2019 in re: Ram Saran Vs. State of UP and 3 Others** decided on **12.03.2019**, a copy of which is Annexure No. 13 to the petition.

5. This Court, vide its order dated 19.12.2023, had required Shri Rishabh Tripathi, learned counsel appearing for respondents no. 2 and 3 to seek instructions as to why the benefit of the order passed by this Court in the case of **Ram Saran (supra)** cannot be extended to the

petitioner.

6. Today, Shri Rishabh Tripathi, learned counsel appearing for respondents no. 2 and 3, on the basis of instructions sent by General Manager (Personnel) of the Corporation dated 20.12.2023, states that against the judgment of this Court passed in the case of **Ram Saran (supra)**, the Corporation has filed **Special Appeal Defective No. 1114 of 2019 in re: U.P. Forest Corporation and 2 Others Vs. Ram Saran and Another** but no stay order has been granted in the said special appeal. He further states that Ram Saran has been granted the benefit of said judgment subject to decision in the aforesaid special appeal.

7. Shri Rishabh Tripathi, learned counsel appearing for respondents no. 2 and 3 further argues that the general body of the Corporation has passed a resolution dated 03.05.2023 to amend the service regulations which provides for an automatic promotion after a person has rendered ten years meritorious service as Assistant Grade-III which decision has been sent to the State Government.

8. However, Shri Rishabh Tripathi, learned counsel appearing for respondents no. 2 and 3 fairly states that no decision has been taken by the State Government till date consequently, the rules still continue to operate.

9. Considering the aforesaid more particularly when the petitioner is seeking the parity of the judgment passed in the case of **Ram Saran (supra)** as well as the fact that the respondents while deciding the representation of the petitioner vide order dated 25.10.2023 have only indicated about the pendency of the said special appeal before Division Bench of this Court at Allahabad to be an impediment in allowing promotion to the petitioner after rendering ten years of service to be promoted in Assistant Grade-II consequently this Court does not find any impediment in extending the benefit of judgment

and order passed by this Court in the case of **Ram Saran (supra)** to the petitioner subject to decision of the special appeal pending against the judgment of **Ram Saran (supra)**.

10. Keeping in view the aforesaid discussion, the writ petition is **allowed**. The order impugned dated 25.10.2023, a copy of which is Annexure No. 1 to the petition, is hereby set aside.

11. Respondents are directed to grant the benefit of judgment and order passed by this Court in the case of **Ram Saran (supra)** to the petitioner also.

12. Order of promotion, if any granted to the petitioner in pursuance to this order would be subject to the decision of **Special Appeal Defective No. 1114 of 2019** to which learned counsel for the petitioner also agrees.

Order Date :- 21.12.2023

Mohit Singh/-