

Court No. - 7

Case :- WRIT - A No. - 9681 of 2023

Petitioner :- Hira Lal Ram

Respondent :- State Of U.P. Thru. Prin. Secy. Public Works Deptt. Lko. And 2 Others

Counsel for Petitioner :- Shivanshu Goswami

Counsel for Respondent :- C.S.C., Shishir Jain

Hon'ble Abdul Moin, J.

Heard Sri Shivanshu Goswami, learned counsel for the petitioner, learned Standing counsel appearing on behalf of the respondent no. 1 and Sri Shishir Jain, learned counsel appearing on behalf of the respondents no. 2 & 3.

With the consent of learned counsel appearing on behalf of the contesting parties, the instant writ petition is being finally decided.

Under challenge is the order dated 21.06.2023, a copy of which is annexure 1 to the writ petition whereby the claim of the petitioner for promotion to the post of Assistant Engineer (Civil) has been rejected.

The contention of learned counsel for the petitioner is that as criminal proceedings are pending against the petitioner as such, although the petitioner was eligible for being promoted as Assistant Resident Engineer (Civil) yet he has not been promoted and his case has been kept in sealed cover.

The petitioner staked his claim for regular promotion to the post of Assistant Resident Engineer (Civil) which has been rejected vide order impugned dated 21.06.2023.

The contention is that the claims for promotion where either disciplinary or criminal proceedings are pending, are governed by the Government order dated 28.05.1997, a copy of which is annexure 2 to the writ petition. He contends that even though the petitioner has not been found eligible for being given regular promotion yet it was the duty of the respondents to have considered the claim for ad-hoc promotion keeping in view Clause 10 of the aforesaid Government order which has also not been done till date.

On the other hand, Sri Shishir Jain, learned counsel appearing on behalf of the respondents no. 2 & 3 states that the petitioner had only staked his claim for regular promotion which was not tenable keeping in view the criminal proceedings pending against the him. However, as the petitioner never staked his claim for ad-hoc promotion consequently, the same has not been done by the department.

Keeping in view the aforesaid more particularly when the Government order dated 28.05.1997 also provides in Clause 10 of a consideration for ad-hoc promotion to be made as such, the writ petition is disposed of without interfering with the order impugned leaving it open to the petitioner to submit his claim for ad-hoc promotion to the post of Assistant Resident Engineer (Civil) in terms of the Government order dated 28.05.1997 within a period of two weeks from today. It is further provided that in case any such claim is made by the petitioner for ad-hoc promotion, the respondent no. 2 shall consider the said claim in accordance with law and the relevant rules & the Government order dated 28.05.1997 or any other order governing the subject provided there is no legal impediment which would be considered within a period of six weeks from the date of receipt of a certified copy of this order.

Order Date :- 18.12.2023

Pachhere/-