

Court No. - 20

Case :- WRIT - A No. - 9700 of 2023

Petitioner :- Giridhari

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Horticulture Deptt.
U.P. Lucknow And 3 Others

Counsel for Petitioner :- Awnish Kumar, Sudeep Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.
2. Petition has been filed seeking a direction to opposite parties to provide minimum of the pay-scale to petitioner on the post of Gardener.
3. Mr. Jogendra Nath Verma, learned State Counsel appearing for opposite parties has raised a preliminary objection that present petition is in fact a second petition for the same cause of action and is therefore barred under Chapter XXII Rule 7 of the Rules of this Court inasmuch as petitioner earlier also had filed Writ Petition No.935 of 2021 (S/S) for the same relief, which was disposed of vide order dated 18.01.2021 directing opposite parties to consider petitioner's claim for grant of minimum of the pay-scale.
4. On such objections having been raised, learned counsel for petitioner, however adverts to fact that despite specific directions having been issued by this Court, petitioner's representation with regard to grant of minimum of monthly pay-scale is yet pending consideration which constitutes a recurring cause action and therefore a second petition would be maintainable and would not be barred in terms of aforesaid Rules.
5. Upon examination of aforesaid submission, this Court finds

force in the submissions advanced by learned counsel for petitioner particularly since opposite parties were under a bounden duty to have considered petitioner's claim once direction of this Court had been issued.

6. In view of aforesaid, opposite party no.4 i.e. Superintendent of Government Garden, Lucknow is directed to decide petitioner's pending representation regarding aforesaid prayer within a period of two months from the date a certified copy of this order is produced before the said authority along with copy of earlier representation.

7. With aforesaid observations and directions, the petition is finally **disposed of**.

Order Date :- 19.12.2023
kvg/-