

Court No. - 18

Case :- WRIT - A No. - 1509 of 2024

Petitioner :- Bimal Chandra Roy And 3 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Industrial Development Lko. And 3 Others

Counsel for Petitioner :- Rajesh Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Manish Kumar,J.

1. Heard learned counsel for the petitioners and learned Standing Counsel for the State.
2. With the consent of learned counsel for the petitioners and learned Standing Counsel, the present writ petition is finally adjudicated at the admission stage.
3. The present writ petition has been preferred by the petitioners for quashing of the impugned order dated 05.02.2024 passed by opposite party no. 2/Director, Govt. Printing and Stationery U.P., Lucknow.
4. Learned counsel for the petitioners has submitted that the claim of the petitioners has been rejected by the order dated 05.02.2024 passed by respondent no. 2/Director, Govt. Printing and Stationery U.P., Lucknow and declined to give benefit of the judgments of this Court passed in the cases of Krishna Rawat, Kapoor Chand, Chandrika Prasad, Vakeel and Nibhas Dass wherein this Court had directed to grant pay-scale of Rs. 1200/-1800/- (revised pay scale Rs. 5200-20200 + Grade Pay Rs. 2400/-) w.e.f. 31.07.1996.
5. It is further submitted that the claim of the petitioners have been rejected merely on the ground that the petitioners are not entitled for the said benefit as they were not party in the cases of Kapoor Chand, Krishna Rawat and Vakeel Sahni i.e. W.P. No. 2790 (S/S) of 1998, W.P. No. 715 (S/S) of 2013 & Writ A No. 6416 of 2012 respectively.
6. On the other hand, learned Standing Counsel has submitted that the present petitioners were not party in the above mentioned writ petitions, hence their claim has rightly been denied by the respondent no. 2 but unable to distinguish the parity of the judgments in the cases of Krishna Rawat, Kapoor Chand, Chandrika Prasad, Vakeel and Nibhas Chandra Dass passed in W.P. No. 715 (S/S) of 2013, W.P. No. 2790 (S/S) of 1998, Writ-A No. 20854 of 2019, Writ A No. 6416 of 2012 & Writ-A No. 5571 of 2023 by orders dated 02.08.2021, 21.03.2005, 19.01.2023,

15.07.2022 & 17.01.2024 respectively and has fairly accepted that the case of the petitioners are covered by the above mentioned judgments.

7. The judgment/order dated 21.03.2005 passed in the case of Kapoor Chand & Ors. vs. State of U.P. and Ors. in W.P. No. 2790 (S/S) of 1998 which has been followed in the cases of Krishna Rawat, Kapoor Chand, Chandrika Prasad, Vakeel and Nibhas Chandra Dass passed in W.P. No. 715 (S/S) of 2013, W.P. No. 2790 (S/S) of 1998, Writ-A No. 20854 of 2019, Writ A No. 6416 of 2012 & Writ-A No. 5571 of 2023, is reproduced hereinbelow:-

"Heard Sri L.K. Pathak for the petitioner as well as learned Standing Counsel for the Opposite Parties No. 1 to 4 and perused the record.

By means of the instant writ petition, the petitioner has prayed for the following reliefs:-

- 1. Issue a writ, order or direction in the nature of certiorari quashing the Office order No. 460 dated 12.06.1998 passed by opposite Party No. 4 changing the designation of the petitioner as contained in Annexure. No. 1 to this writ petition.*
- 2. Issue a writ, order or direction commanding the Opposite parties to pay the revised scale of pay of 1200-1800/- from 21.07.1996 as being given to others holding the post of Machine Assistant Offset and pay the arrears.*
- 3. Issue a writ, order or direction in the nature of Mandamus commanding the Opposite Parties not to reduce the rank of the petitioners and treat them as Machine Assistant Offset as they are up to passing of the order dated 12.06.1998.*
- 4. Issue any other suitable order or direction, which this Hon'ble Court may deemed fit, just and proper in the circumstances of the case may also be pass and*
- 5. Cost of the writ petition may also be awarded in favour of the petitioners.*

Brief facts of the case are that an advertisement was published in the Daily News Paper 'Dainik Jagran', requiring the prospective candidates, who are enrolled in the Office of Employment Exchange to submit their application for appointment on the Assistant Offset in the pay scale of 950-1400/-. It was also mentioned in the said advertisement that, the last date for submitting the application was 12.06.1992, and 4 posts are for General Candidates, whereas, 2 posts belongs to reserved category candidates. It was also provided that, there is likelihood of creation of three more posts. The requisite qualification for the said posts was High School and the certificate in the Trade of Machine Man Offset under Apprentice Act, 1961 or two years of working experience on the Offset printing Machine from any reputed Firm/Institution. In pursuance of the said advertisement. the petitioners had applied for the post of Machine Offset and after due selection and recommendation of the Selection Committee, the petitioners were appointed on different dates. All the petitioners joined the respective posts of Assistant Machine Offset and started working as such thereafter, since there was no rules in order to regulate the service of the employee/ employees working in Government Press and as such in exercise of power conferred under Article 309 of the Constitution of India and in supersession of all existing Rules and orders on the subject, the Governor is pleased to frame the rules regulating requirement and conditions of service of person appointed to the Uttar Pradesh, Printing and Stationary Technical Service, namely, The Uttar Pradesh Printing and Stationary Technical Service

Rules 1993.

Admittedly, the petitioners have been appointed prior to the coming into the force of the aforesaid Rules. Rule 4 deals with Cadre Part III comprising of Rules 5 & 6 deals with requirement to the various categories of posts and part IV provides the essential and preferential qualification for direct recruitment. Appendix B annexed with the aforesaid Rules and at Serial No. 51, the pay scale as well as, the number of posts of Machine Assistant Offset has been mentioned and also the appointing authority has been prescribed.

It has also been stated that after the submission of the report of the Equivalence Committee in the year 1991, anomalies were detected on various posts and as such, aggrieved persons made a representation to the State Government. In pursuance thereof, Government had issued a G.O. dated 31.07.1996, where in the post of Machine Assistant Offset in the pay scale of 1950- 1400/- as provided under rules has been bifurcated into two categories as Machine Assistant Offset and Offset Machine Parichar. After the bifurcation, the total number of posts of Offset Machine Offset was reduced to 81 in the pay scale of Rs. 1200-1800/- from 163 posts as provided under the rules and the remaining 82 posts in the pay scale of RS. 950- 1500/- were earmarked to Offset Machine Parichar. It has further been provided that 50% of Machine Assistant Offset shall be filled by means of Promotion from among the posts of Offset Machine Parichar and remaining 50% by means of Direct Recruitment. In pursuance of the aforesaid Government Order, the Deputy Director has placed the petitioners on the post of Offset Machine Parichar in the pay scale of 950-1400/- on the basis of the Seniority. Being aggrieved thereof, the petitioners has preferred a representation through the proper channel, which was kept pending and as such the instant writ petition.

A counter affidavit has been filed by the Opposite Parties controverting the contents of the writ petition, where in it has been stated that, the bifurcation of the posts of Machine Assistant Offset, was made on the basis of the report of Equivalence Committee. It has also been stated in the Counter Affidavit that the Government has sanctioned total 163 posts of Machine Assistant Offset in the Government Printing Press. It has also been stated that, under the Modernization Scheme 163 posts have been bifurcated as 81 posts Of Machine Assistant Offset in the pay scale of Rs. 1200-1800/- and remaining 82 posts, whose designation has been changed as Machine Offset Parichar in the pay scale of Rs. 950-1500/.

A rejoinder affidavit has been filed by Learned Counsel for the Petitioners controverting the contents of the Counter Affidavit and reiterating the contents of writ petition.

On the basis of the aforesaid pleadings, it has been submitted that, the bifurcation of Cadre into Machine Assistant Offset and Offset Machine Parichar is contrary to the provisions of the Uttar Pradesh Printing and Stationary Technical Service Rules, 1995 in so far as the rules cannot be amended by the means of an Executive Orders and in the instant case, the Rule 1995 has not been amended till date and also the petitioners were not provided any opportunity of hearing prior to change the designation.

It was also submitted that the petitioners have been appointed directly on the post of Machine Assistant Offset and by means of the present G.O., the petitioners are designated as Offset machine Parichar from which post after serving for three years will be entitled for promotion to the post of Machine Assistant Offset, the post on which they are directly recruited between 1992-93. Thus, it amounts the reversion.

On the other hand, learned Standing Counsel submits that the cadre has been

revised on account of anomalies on various posts in the Government Press. It has also been stated that the persons have not been reverted insofar as the persons who have been working on Machine Assistant Offset and are senior has been placed on 81 post in the pay scale of RS. 1200-1500/- and the remaining persons who are junior in the seniority list have been placed on the remaining 82 in the pay scale of Rs. 950-1400/.

After hearing the rival submission of parties and on perusal of the records, I find force in the submission by learned counsel for the petitioners that the rules cannot be substituted by the means of an executive order and further the change of designation in the case of the petitioner amounts to reversion and admittedly, no opportunities was afforded to the petitioner prior to passing of the order dated 12.06.1998 issued the Government Order 31.07.1996.

Under the above facts and circumstances, writ petition is allowed and order dated 12.06.1998 and the Government Order dated 31.07.1996 is quashed insofar as it relates to the petitioner. It is further provides that the petitioner, who was appointed as Machine Assistant Offset, shall continue as such and are entitled to the pay scale of RS. 1200-1800/."

8. In view of the facts, circumstances and the discussions made hereinabove, the writ petition is allowed.

9. The impugned order dated 05.02.2024 passed by opposite party no. 2 is hereby quashed.

10. The respondents are directed to grant the pay scale of Rs. 1200/-1800/- (revised pay scale Rs. 5200-20200 + Grade Pay Rs. 2400/-) w.e.f. 31.07.1996 which has been given to other similarly situated persons in compliance of the orders of this Court in the cases of Krishna Rawat, Kapoor Chand, Chandrika Prasad, Vakeel and Nibhas Chandra Dass passed in W.P. No. 715 (S/S) of 2013, W.P. No. 2790 (S/S) of 1998, Writ-A No. 20854 of 2019, Writ A No. 6416 of 2012 & Writ-A No. 5571 of 2023 by orders dated 02.08.2021, 21.03.2005, 19.01.2023, 15.07.2022 & 17.01.2024 respectively within a period of three months from the date of production/receipt of certified copy of this order.

Order Date :- 27.2.2024

Nitesh