

Court No. - 6

Case :- WRIT - A No. - 3634 of 2024

Petitioner :- Ravi Pratap Rao

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt.
Agriculture Lko And 3 Others

Counsel for Petitioner :- Ajay Kumar, Shatrughan Sah

Counsel for Respondent :- C.S.C.

Hon'ble Abdul Moin, J.

1. Heard.

2. Instant petition has been filed praying for the following reliefs:-

"i) To issue a writ of certiorari to quash the order passed by District Agriculture Officer dated 30.05.1976, considering the order of acquittal passed by Judicial Magistrate first class Sitapur duly confirmed by this Hon'ble High Court.

ii) Issue a writ, order or direction in the nature of Mandamus commanding to opposite parties to pay entire salary and all consequential benefits to the petitioner from his joining to the retirement and further release the arrears of the salary from the date of 01.06.1973 to 15.05.1974 and the subsistence allowance payable to the petitioner under the rules for the period of 15.05.1974 to 31.05.1976 forthwith and not to give the effect to the order date, in the interest of justice.

iii) Issue a writ, order or direction in the nature of Mandamus commanding to opposite parties to release all the pending due including arrears of salary, subsistence allowance and all the consequential benefit to the petitioner permissible under the law and quashed the malicious inquiry report, keeping in view the judgment passed by the trial court dated 05.08.2003 and this Hon'ble High Court dated 26.09.2022 contained in Annexure No. 4 and 5.

iv) Issue a writ, order or direction in the nature of Mandamus commanding to opposite parties to pay the damages to the petitioner for the harassment mental agony and financial losses

suffered by the petitioner, in the interest of justice.

v) any other appropriate writ, order or direction which this Hon'ble Court may deem just and necessary in the facts and circumstances of the case; and

vi) allow this writ petition with costs."

3. The contention of learned counsel for the petitioner is that the petitioner while working on the post of Sahayak Krishi Nirikshak under the respondents had been dismissed from service vide order dated 30.05.1976, a copy of which is Annexure-3 to the petition. The dismissal order was passed after due inquiry in which the petitioner did not participate. The petitioner chose not to file any appeal against the dismissal order nor had he challenged the said order since the year 1976 before any court of law and for the very first time, after a period of 48 years, the order is now sought to be challenged by means of instant petition.

4. The contention of learned counsel for the petitioner is that although the charges levelled against the petitioner pertained to the petitioner having misappropriated an amount of Rs.231641/- and also having concealed the relevant records for the same yet on the basis of first information report which had been lodged against the petitioner, a criminal case was initiated against the petitioner which ultimately resulted in his acquittal by the competent court vide judgment and order dated 05.08.2003, a copy of which is Annexure-4 to the petition. The appeal filed by the State has also been dismissed vide judgment and order dated 26.09.2022, a copy of which is Annexure-5 to the petition.

5. Placing reliance on the judgment of Hon'ble Apex Court in the case of **Ram Lal vs. State of Rajasthan and others** - 2024 (1) SCC 175, the contention of learned counsel for the petitioner is that as the petitioner has been acquitted in the criminal case consequently the dismissal order also deserves to

be set-aside.

6. In this regard, reliance has been placed on the relevant observations of the Apex Court in the case of **Ram Lal (supra)** to argue that the Apex Court has held that where in the criminal proceedings the competent criminal court has acquitted the person after considering the prosecution evidence and where the prosecution has miserably failed to prove the charge and where in the disciplinary and criminal proceedings the witnesses, evidence and circumstances are one and the same then the delinquent employee, who has been dismissed from service, would be entitled for having the dismissal order set aside on the ground of he having been acquitted by the criminal court.

7. On the basis of the aforesaid arguments, the Court proceeds to consider as to whether in the criminal case that had been lodged against the petitioner, the competent criminal court has acquitted the petitioner by holding that the prosecution has miserably failed to prove the charges.

8. Perusal of the judgment of the learned trial court dated 05.08.2003 would indicate that the learned trial court has acquitted the petitioner by giving him the benefit of doubt. The learned trial court has also held that the prosecution has failed to prove the charges beyond reasonable doubt and hence has acquitted the petitioner.

9. Once the acquittal of the petitioner has been done by the learned trial court on the basis of benefit of doubt by categorically recording that the prosecution has failed to prove its case beyond reasonable doubt meaning thereby that the learned trial court has not held that the prosecution has failed to prove the charges against the petitioner consequently it cannot be said that the petitioner would be entitled for the benefit of the acquittal as has been recorded by the learned trial court for

having the dismissal order set aside.

10. Another aspect of the matter is that the petitioner did not participate in the departmental proceedings that were initiated against him. The dismissal order is based on the departmental proceedings and do not refer to any criminal proceedings. No reasons also emerge from perusal of the petition why the petitioner failed to participate in the departmental proceedings. Even after the order of dismissal, the petitioner chose to not file any appeal against the said order nor challenged the said order before any competent court of law. The acquittal order is of 05.08.2003 and the instant writ petition is being filed after a period of 21 years which are all factors which do not go in favour of the petitioner inasmuch as the petitioner having not challenged the dismissal order at the relevant time is only now raising a challenge to it after a period of 48 years.

11. Considering the aforesaid, the judgment of **Ram Lal (supra)** would have no applicability in the facts of the instant case.

12. Keeping in view the aforesaid discussion, no case for interference is made out. The writ petition is accordingly **dismissed**.

13. At this stage, learned counsel for the petitioner states that there are certain dues which have still not been paid to the petitioner pertaining to subsistence allowance and salary as have been indicated by the department in the letter dated 04.02.2003, a copy of which is Annexure-6 to the petition.

14. Though after a period of 21 years there cannot be any occasion for a mandamus being issued for payment of dues but it is left open for the respondents to ensure that in case any dues are still left to be paid to the petitioner then the same shall be paid to him without being prejudiced by the fact of the instant

petition having been dismissed.

Order Date :- 10.5.2024

A. Katiyar