

Court No. - 18

Case :- WRIT - A No. - 2895 of 2012

Petitioner :- Bhupdenra And 4 Others

Respondent :- State Of U.P. Thru Secy. In The Deptt. Of Irrigation And 2 Ors

Counsel for Petitioner :- D.M. Tripathi, Amarendra Pratap Singh, Anil Singh, Diwakar Prasad Sharma

Counsel for Respondent :- C.S.C.

Hon'ble Manish Kumar, J.

1. The present writ petition has been preferred for quashing of the order dated 03.08.2005, passed by the Engineer-in-chief, Irrigation Department, U.P, Lucknow, whereby rejecting the claim of the petitioner for appointment on the post of Stenographer.

2. Learned counsel for petitioner has submitted that the petitioner was selected against the vacancy of the year 1995-1996, but the appointment was not given to the petitioner.

3. It is further submitted that five similarly situated persons had approached this Court by filing a writ petition and the petitioner, along with others had preferred a writ petition before this Hon'ble Court in which leading one was Pravesh Kumar versus State of U.P and Ors. and all the writ petitions were decided by a common judgment dated 30.11.2004 disposing of the writ petitions with a direction to the opposite parties that they shall consider the case of the petitioners from the select list, 1995, only if it is found that any vacancy was already existing during the lifetime of the select list, 1995 i.e. one year time, consequently, they will be given appointments, but the vacancies where were occurred after the expiry of one year from the date of publication of select list 1995, the same should be filled up by making fresh selection and in that case it will be open for the petitioners to participate therein.

4. It is further submitted that when the order was not complied with, the petitioner Shri Pravesh Kumar, one of the petitioner had preferred a contempt petition which was dismissed by order dated 15.05.2007, after the filing of the counter affidavit with a finding given therein that it is clear that till date of advertisement dated 17.02.1995 there were 41 vacancies which were filled up from the select list prepared in pursuance of the aforesaid advertisement. However, some vacancies arose thereafter during the lifetime of the select list vis 30.12.1996, those have been shown in number 60 vacancies. It appears that department had proceeded to issue fresh advertisement in the year 2003 for making selection against those vacancies.

According to the petitioners since those sixty vacancies were created during the lifetime of the select list, the respondents were under obligation in pursuance of the order of this Court to fill up those vacancies from the candidates according to their merit from the select list of 1995.

5. The contempt Court has passed detailed order after the counter affidavit. The relevant paragraph is quoted below:-

" In view of the aforesaid facts it is clear that till the date of advertisement dated 17.2.1995 there were 41 vacancies which have been filled up from the select list prepared in pursuance of the aforesaid advertisement. However, some vacancies arose thereafter during the life time of the select list till 13th December, 1996, those have been shown in number as 60 vacancies, it appears that the Department has proceeded to issue a fresh advertisement in 2003 for making selection against those vacancies. According to the petitioner since those 60 vacancies were created during the life time of the select list, the respondents were under obligation in pursuance of the direction of this court, to fill up those vacancies from the candidates according to their merit from the select list of 1995.

Recruitment process, as is well known, must be commensurate with the statute or the statutory rule operating in the field. The life of a select list is governed by the statutory Rules. Through the order passed in the writ petition this court has observed that there is a provision under relevant Rules to the effect that "the life of the select list will be only for one year". The life of the select list starts from the date of publication of the select list. Admittedly the select list was prepared on 1st September, 1995 but the same was published on 14th December, 1995, accordingly the life of which expired on 13th December, 1996. Dealing with the same question the Hon'ble Supreme Court in the case of Union of India and others versus B.Valluvan and others (2006) 8 SCC 686 has held that the life of a panel ordinarily is one year and the same can be extended only by the State and that too if the statutory Rules permit to do so. The High Court ordinarily would not extend the life of the panel.

In the present matter the petitioner has not been able to place any rule, which extends the life of the select list beyond the period of one year. From the facts it is clear that the posts, which were advertised, have been filled up from amongst the candidates being on the select list according to their merit and no post advertised through the advertisement in question remained vacant to be filled up. The advertisement was confined only to the vacancies, which were available on the date of advertisement, for which the panel was prepared, the same cannot be given effect to for the future vacancies as admittedly these 60 vacancies arose after the date of advertisement which are the future vacancies, against which the petitioner cannot claim right of appointment in view of the judgment of the Hon'ble Supreme Court. "

6. Learned State Counsel has submitted that the vacancies which the petitioners are claiming had arisen after the selection of the petitioners and prior to the subsequent advertisement issued/published in the year 2003. These vacancies cannot be included in the vacancies of the year 1995 for which the advertisement was published and the petitioner had applied. It was a future vacancy on which the period of select list is not relevant and there is no illegality in the orders passed by the authority.

7. After hearing learned counsel for the parties and going through the records of the case, in view of the facts and circumstances and discussions made herein above, the petitioner are claiming their appointment in pursuance of the selection held in the year 1995 against the vacancies which had occurred after the selection of the petitioners which cannot be treated to be the vacancies on which the petitioners were selected. Their currency of select list is for one year and during this period if any vacancy against which the select list was made in pursuance of the advertisement in the year 1995, on that, the petitioner would have any right, but the vacancies which had occurred subsequent to the selection of the petitioners, the petitioners have no right to be given appointment as the life of the select list was in existence at that time.

8. From the perusal of the relevant paragraphs of the judgment dated 15.05.2017 it has come out that there was no vacancy available against the advertisement/selection of the year 1995 and any selection which were made subsequently were against the subsequent vacancies which had arisen after the advertisement published in the year 1995.

8. The writ petition is devoid of merit is hereby ***dismissed***.

Order Date :- 15.2.2024
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