

Court No. - 18

Case :- WRIT - A No. - 5571 of 2023

Petitioner :- Nibhas Chandra Dass And 2 Others

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

Counsel for Petitioner :- Azam Shafeequi

Counsel for Respondent :- C.S.C.

Hon'ble Manish Kumar,J.

Heard learned counsel for the petitioners as well as learned Standing Counsel for the respondents.

Learned counsel for the petitioner has submitted that earlier also the petitioner has approached this Court by filing Writ Petition No.14832/SS/2019 which has been disposed of vide judgement and order 24.05.2019 directing the respondent to consider and decide the representation of the petitioner dated 5.3.2019 by means of reasoned and speaking order.

In compliance thereof the present impugned order has been passed.

The present petition has been filed praying for quashing of the order dated 15.10.2019 passed by the respondent no. 2, copy of which is annexures 1 to the writ petition whereby the benefit of designation of the post of Machine Assistant (Off Set) and pay scale of Rs. 1200-1800/- has been denied to the petitioners w.e.f 31.07.1996. A further prayer is for consideration of the case of the petitioner in the light of the judgment and order dated 21.03.2005 passed in Writ Petition No. 2790 (SS) of 1998 In re; Kapoor Chand and Ors Vs. State of U.P and Ors, a copy of which is annexure 13 to the writ petition.

Learned counsel for the petitioners contends that the petitioner had been appointed on the post of Machine Assistant (Letter Press) in the year 1980 to 1981. A decision was taken for establishment of new set up of printing technology under the modernization scheme and certain posts were created. A discriminatory pay scale was sought to be introduced by the respondents. A set of employees being aggrieved against the discrimination in the pay scale filed Writ Petition No. 2790 (SS) of 1998 Inre; Kapoor Chand and Ors Vs. State of U.P and ors praying for being given the revised pay scale of Rs. 1200-1800/- w.e.f 31.07.1996 and other reliefs. The writ Court vide

judgment and order dated 21.03.2005, a copy of which is annexure 10 to the writ petition, allowed the petition and directed that the petitioners shall be entitled for the pay scale of Rs. 1200-1800/-. The special appeal filed against the said judgment was dismissed and even the Special Leave to Petition filed by the State of U.P vide Special Leave to Appeal (Civil) No. 18167 of 2008 was dismissed vide order dated 08.08.2008, copies of which are part of annexure 7, 8 and 9 to the writ petition.

In pursuance to the directions issued by the writ Court, the respondents have proceeded to pass an order dated 27.01.2012 whereby w.e.f 31.07.1996 to 31.08.2008 the petitioners of the said case were given the pay scale of Rs. 1200-1800/- and thereafter the pay scale of Rs. 3050-4590/- with attendant benefits.

Subsequent thereto, the juniors to the petitioner filed Writ Petition No. 4956 (SS) of 2004 Inre; Sri Krishna Singh Rawat and Ors Vs. State of U.P and Ors and the writ Court vide judgment and order dated 04.08.2011 as corrected on 18.08.2011, a copy of which is annexure 12 to the writ petition extended the benefit of the judgment and order dated 21.03.2005 passed in Writ Petition No. 2790 (SS) of 1998. Subsequent thereto, the respondents filed Special Appeal (Defective) No. 37 of 2012 Inre; State of U.P and ors Vs. Sri Krishna Rawat And ors before this Court which was dismissed vide judgment and order dated 25.01.2012, a copy of which is annexure 12 to the writ petition, by holding that no cogent ground has been made out in the special appeal. Thus, the judgment and order dated 04.08.2011 attained finality.

Subsequent thereto, the respondents have proceeded to pass the orders dated 09.07.2012 and 16.07.2012, copies of which are annexures 12 to the writ petition whereby the said petitioners have been given the pay scale of Rs. 1200-1800/- with the designation of Machine Assistant (Off Set) w.e.f the date of judgment passed by the writ Court i.e w.e.f 04.08.2011. Challenging orders dated 09.07.2012 and 16.07.2012, the juniors to the petitioners had filed Writ Petition No. 715 (S/S) of 2013, in re Krishna Rawat and Others Vs. State, which was allowed on 02.08.2021, quashing the orders dated 09.07.2012 and 16.07.2012, so far as they were extended the benefit of the judgment of the Writ Court dated 04.08.2011, to the said petitioners w.e.f. 04.08.2011 and writ of mandamus was issued with direction to the respondents to reconsider for extension of the benefit at par with the Kapoor Chand & Others (Supra).

On the other hand, learned Standing counsel on the basis of

averments contained in the short counter affidavit argues that there is clear cut difference between the case of Kapoor Chand and ors (supra) and the case of petitioner inasmuch as the petitioners of Kapoor Chand (supra) were appointed as Machine Assistant (Off Set) since the very beginning while the petitioner herein has been appointed as Machine Assistant (Letter Press). The details thereof have been given in the counter affidavit. It is thus contended that once there was a difference between the two set of employees i.e the employees in the case of Kapoor Chand (supra) and in the instant petition, as such the pay scale of Rs. 1200-1800/- with the designation of Machine Assistant (Off Set) has been given to the petitioner w.e.f the date of judgment of the writ Court and the petitioner would not be entitled for any benefit from an earlier time.

Heard learned counsel appearing for the contesting parties and perused the records.

From a perusal of records it comes out that a set of employees namely Kapoor Chand and ors (supra) had approached this Court by filing Writ Petition No. 2790 (SS) of 1998. The writ Court vide judgment and order dated 21.03.2005 had held the set of petitioners as entitled for the pay scale of Rs. 1200-1800/-. The special appeal and special leave to petition filed against the said judgment has been dismissed meaning thereby the judgment and order dated 21.03.2005 attained finality. Subsequent thereto, the respondents proceeded to comply with the judgment and order dated 21.03.2005 in the case of Kapoor Chand and Ors (supra) by giving the benefit said judgment and by granting them the designation of Machine Assistant (Off Set) in the pay scale of Rs. 1200-1800/- w.e.f 31.07.1996 with attendant benefits.

The juniors to the petitioners had also filed a Writ Petition No. 4956 (SS) of 2004 and the writ Court vide judgment and order dated 04.08.2011 and Writ Petition No. 715 (S/S) of 2013 (Decided on 02.08.2021), had extended the benefits of the judgment and order dated 21.03.2005 passed in the case of Kapoor Chand (supra) to juniors to the petitioners also. The special leave to appeal filed against the said judgment dated 04.08.2011 was dismissed on 25.01.2012 meaning thereby that the judgment dated 04.08.2011 attained finality. Subsequent thereto, the respondents have proceeded to pass the impugned orders dated 09.07.2012 and 16.07.2012 in compliance to the judgment and order dated 04.08.2011. However, the benefit as admissible to the petitioner has only been given to him w.e.f the date of judgment i.e 04.08.2011. Once the writ Court vide judgment and order dated 04.08.2011 had extended the benefit of the judgment of Kapoor Chand (supra) and the set of

petitioners in the case of Kapoor Chand (supra) have been given the benefit of pay scale of Rs. 1200-1800/- w.e.f 31.07.1996 consequently, there cannot be any occasion of the respondents to deny the grant of the said benefits to the petitioners. Thus, there appears to be discrimination so far as the petitioner is concerned.

Considering the aforesaid, the writ petition is partly allowed. A writ of certiorari is issued quashing the orders dated 15.10.2019 (Annexure - 1 to the writ petition). A writ of Mandamus is issued directing the respondents to reconsider the case of the petitioners for extension of the benefit at par with the petitioners of Kapoor Chand (supra) in the light of the judgment dated 21.03.2005, a copy of which is annexure 13 to the petitioner as extended to the petitioners of Kapoor Chand (supra) and judgment dated 04.08.2011 (Corrected on 18.03.2011) and judgment dated 02.08.2021, passed in Writ Petition No. 715 (S/S) of 2013 in re Krishna Rawat and others Vs. State and judgement dated 19.01.2023 passed in Writ-A No.20854/ 2019 in re: Chandrika Prasad & 5 Ors vs. State of U.P. and designating the petitioners as Machine Assistant (Off Set) in the pay scale of 1200-1800 (revised 5200-20,200 + 2400) w.e.f. 31.07.1996, with all consequential service benefits of difference of arrears of salary with interest at the rate of 6% per annum thereon.

Let such a consideration be done within a period of three months from the date of communication of certified copy of this order.

Order Date :- 17.1.2024
S. Kumar