

Neutral Citation No. - 2024:AHC-LKO:85430-DB

Court No. - 1

Case :- WRIT - A No. - 12034 of 2024

Petitioner :- State Of U.P. Thru. Prin. Secy. Revenue Lko. And 3 Others

Respondent :- State Public Services Tribunal Lko. Thru. Chairman And Another

Counsel for Petitioner :- C.S.C.

Counsel for Respondent :- Manish Mishra, Pradeep Kumar, Shiv Shankar Verma

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Subhash Vidyarthi, J.

(1) Vakalatnama filed by Sri Parmendra Kumar Singh, learned counsel on behalf of the opposite party no.2 is taken on record.

(2) Heard learned counsel for the petitioners-State and Sri Manish Mishra, learned counsel, who has put in appearance on behalf of opposite party no.1 and Sri Pramendra Kumar Singh, learned counsel for opposite party no.2.

(3) The writ petition filed by the State has arisen out of the judgment rendered by the State Public Services Tribunal in Claim Petition No.1900 of 2022, *Sundar Lal v. State of U.P. and others*, decided on 31.03.2023 as well as an interlocutory order dated 23.10.2024 passed in the contempt proceedings arising therefrom.

(4) It appears that the respondent no.2, who was compulsorily retired on 13.01.2006 from the post of Collection Ameen has been litigating for the grant of service benefits which primarily are based on the satisfactory service record of a Government Servant. The service benefits in the nature of selection grade and time-bound promotional pay scales on completion of satisfactory service of 16, 19 and 24 years was claimed by making representations repeatedly. Successive writ petitions and claim petitions have come to be filed wherein the representation made by respondent no.2 as regards the claim mentioned above was directed to be disposed of.

(5) Lastly, the representation for grant of the aforesaid benefits appears to have been considered and rejected vide order dated 22.07.2022. Consequently, Claim Petition No.1900 of 2022 arising from the above order was filed before the Tribunal. The aforesaid claim petition was decided vide judgment/order dated 31.3.2023 wherein the Tribunal ordered as under:-

"याचिका स्वीकार की जाती है। विपक्षी संख्या -3 उपजिलाधिकारी, फतेहपुर, बाराबंकी द्वारा पारित आलोच्य आदेश दिनांकित 22-07-2022 (संलग्नक सं0-1) निरस्त किया जाता है। विपक्षी संख्या -3, उपजिलाधिकारी, फतेहपुर, बाराबंकी को निर्देशित किया जाता है कि वे याची को सेवा सम्बन्धी सभी पारिणामिक सेवा लाभ यथा- सेलेक्शन ग्रेड, एक अतिरिक्त वेतन वृद्धि, प्रथम एवं द्वितीय प्रोन्नति वेतनमान आदि का लाभ निर्णय में दी गयी समीक्षा के आधार पर नियमानुसार प्रदान करना करें। इस निर्णय एवं आदेश का अनुपालन विपक्षीगण इस निर्णय की प्रमाणित प्रति प्राप्त करने की तिथि से तीन माह के अन्दर करना सुनिश्चित करें।"

(6) It is evident that the Tribunal while directing for consideration of the respondent's grievance has observed that the competent authority may decide the representation of the respondent no.2 in the light of observations made by the Tribunal in the judgment dated 31.03.2023 as well as the relevant Government Orders applicable in this behalf.

(7) The Tribunal while deciding the claim petition has also noted some adverse material relating to the period prior to the year 1993 and subsequent thereto. The benefit of selection grade which fell due to the respondent no.2 in the year 1987 was directed to be considered in the light of the fact that the confirmation of the respondent-employee was made in the year 1993 and, therefore, any adverse entry recorded prior thereto stood washed off.

(8) The Tribunal for the purposes of grant of service benefits fallen due on completion of 16, 19 and 24 years' satisfactory service has also observed that all such benefits be considered to be granted in favour of the respondent-employee having regard to the service record.

(9) The competent authority in compliance of the order passed by the Tribunal on 31.03.2023 has proceeded to pass an order on 23.08.2023 whereby all the claims made by the respondent-employee were rejected.

(10) The order passed by the competent authority in the teeth of the judgment rendered by the Tribunal has given rise to Contempt Petition No.149 of 2023 wherein an order dated 23.10.2024 has been passed. An affidavit of compliance was filed before the Tribunal on the strength of the order dated 23.08.2023 which appears to have been disapproved by the Tribunal and the competent authority has been directed to file a fresh affidavit of compliance.

(11) Insofar as challenge to the parent judgment dated 31.03.2023 is concerned, the State has firstly approached this Court after a lapse of one year and nine months and that too when the contempt proceedings are in progress. On the strength of the compliance order made by the State, the stand of the State Government that they have complied with the judgment passed by the Tribunal leaves no manner of doubt that the attempt to approach this Court against the order dated 31.03.2023 is an after thought.

(12) We are therefore of the considered opinion that the writ petition as against the judgment dated 31.03.2023 is bereft of any merit and the judgment passed by the Tribunal having been complied with unconditionally leaves no scope for the State to challenge the same.

(13) In so far as the disapproval of the affidavit of compliance filed by the State on the strength of the order dated 23.08.2023 is concerned, we equally gather that the State while proceeding to consider the grant of service benefits to the respondent-employee was

bound to obey the previous orders which are binding upon the state regarding which contempt proceedings are pending and the explanation is bound to be offered.

(14) Considering all the aspects of the matter, the Tribunal has granted time to the State for filing a fresh affidavit of compliance by the competent authority which certainly implies that the competent authority is free to rectify the anomalies crept in the order dated 23.08.2023. In our considered opinion, we do not deem it proper to interfere with the ongoing contempt proceedings at this stage as the Tribunal has granted time to the competent authority to rectify the mistakes crept in the order dated 23.08.2023 while deciding the claim of the respondent No.2.

(15) For the aforesaid reasons, the writ petition filed by the State fails and the same is accordingly *rejected*.

[Subhash Vidyarthi, J.] [Attau Rahman Masoodi, J.]

Order Date :- 19.12.2024
Shahnaz