

Court No. - 6

Case :- WRIT - A No. - 12237 of 2024

Petitioner :- Manoj Kumar Tripathi

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Panchyati Raj Deptt. Lko And 4 Others

Counsel for Petitioner :- Anuj Kudesia, Vikas Kumar Agrawal

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.

1. Heard Shri Anuj Kudesia, learned counsel for petitioner, learned Standing Counsel for the State and perused the material available on record.

2. It has been submitted by learned counsel for petitioner that the petitioner was initially appointed on the post of Safai Karmachari under the physical handicapped category as per select list and as per appointment letter dated 25.11.2009. Subsequently, by means of order dated 05.04.2010 on the basis of mutual consent in public interest, the petitioner was transferred to Mahsi where he continued to work till he was attached to the Headquarter at Bahraich by means of order dated 10.3.2011. The said order was passed on account of the fact that Development Block Mahsi, which is an unpopulated village and therefore his services are not required at that place. The petitioner continued to work at Bahriach. Though some order was passed meanwhile transferring him from one office to another in the Headquarter itself.

3. The grievance of the petitioner is that by means of order dated 16.08.2024 the attachment of the petitioner was cancelled and he was transferred to Village Manjhara Toukali, Development Block Fakharpur. The said place is 50 kilometers from the original place of posting of the petitioner and being

aggrieved by the order dated 16.08.2024 the petitioner had made a representation to the respondents and also subsequently filed a writ petition before this Court being Writ-A No. 7796 of 2024, which was disposed of by the order of this Court dated 12.09.2024 directing the respondents to consider the grievance of the petitioner and decide the same with expedition.

4. In compliance of direction of this Court that the impugned order dated 21.09.2024 has been passed rejecting the said representation. While rejecting the said representation, it has been stated that the petitioner himself has held out that he is a person of general category and does not wish to take the benefit of the disabled category and consequently, the respondents were of the view that the petitioner is not entitled to the benefit of the transfer policy of 2024, which pertains to the benefit granted to the disabled persons and hence on this ground alone, his representation was rejected.

5. Learned counsel for petitioner has submitted that the appointment letter of the petitioner dated 25.11.2009 clearly indicates that he was appointed under the disabled category and there is no dispute in this regard. There is no reason for the respondents not to grant him the benefit of disabled category, once he has been initially appointed in the said category and a person cannot himself voluntarily give up the benefit which has been taken up by him at the time of the induction in service unless and until medical records themselves indicate that the government servant has got rid of the disability on the basis of which he was inducted in the government service till such time that person continues to have the disability, he shall always be entitled for the same and be granted the benefit of the same as per the various government orders.

6. Accordingly, this Court is of the considered view thereby

treating the petitioner in general category, the respondents have acted arbitrarily and have rejected his representation without due application of mind and by ignoring the relevant considerations that the petitioner belongs to disabled category. No other ground has been considered by the respondents while rejecting the representation of the petitioner.

7. Learned Standing Counsel has opposed the writ petition but he could not dispute the aforesaid fact.

8. In light of the above, impugned order dated 21.09.2024 passed by respondent no. 3 are quashed. The same being illegal and arbitrary to the extent that it had decided the representation of the petitioner treating him to be in general category and not entitled to the beneficial provisions extended to the disabled persons. After setting aside the order dated 21.09.2024 , the petitioner shall be permitted to serve at his previous place of posting till fresh order is passed by the competent authority.

9. With the aforesaid observations/directions, this petition is allowed.

(Alok Mathur, J.)

Order Date :- 18.12.2024

Virendra