Court No. - 6

Case :- WRIT - A No. - 12613 of 2024

Petitioner :- Ganpati
Respondent :- State Of U.P. Thru. Addl. Chief Secy. Revenue Deptt. Lko. And 2 Others
Counsel for Petitioner :- Anil Kumar Pandey
Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

1. Heard Sri Anil Kumar Pandey, learned counsel for the petitioner as well as learned Standing Counsel for the respondents.

2. By means of present writ petition the petitioner has prayed for following reliefs:

"1. ISSUE, a writ order or direction in the nature of MANDAMUS commanding the opposite parties to add/ count the petitioner's services rendered by him as seasonal collection peon w.e.f 11.6.1998 till his regularization and give him pensionery benefits in the light of the Judgment and order dated 07.05.2024 passed by the Hon'ble Supreme Court in Civil Appeal No.(s) 6118 of 2024 Anand Prakesh Mani Tripathi versus state of U.P. & Ors and judgment and order dated 06.09.2021 passed in Writ A No.41962 of 2016 Brij Mohan Sharma & 3 ors) and judgment and order dated 08.10.2021 passed in Writ A no. 58 17 of 2020 Kaushal Kishore Chaubey Versus State of U.P. and order dated 17.01.2023 passed in Writ-A No.8158 of 2006 Ram Milan Singh versus state of U.P. & ors in accordance with law.

2. ISSUE, a writ order or direction in the nature of MANDAMUS commanding the opposite parties to add/ count the petitioner's services rendered by him as seasonal collection peon w.e.f 11.6.1998 till his regularization and give him service benefits i.e. ACP, increments etc in accordance with law."

3. It has been submitted by learned counsel for the petitioner that the petitioner was appointed on the post of Seasonal Collection Peon on 11.6.1998 in District Sultanpur. His name finds mention in the select list prepared on 03.6.2011 of Collection Peon of District Sultanpur and in the year 2015, his services was regularized. Subsequently the petitioner superannuated from service on 30.11.2024.

4. It is submitted by learned counsel for the petitioner that the

petitioner had given representation to the respondents for adding their services rendered by him while working as Seasonal Collection Peon and grant pension and other post retiral benefits. As the case of the petitioner was not considered by the authorities, he approached this Court by filing Writ Petition No.9312 (S/S) of 2006, which was disposed of by means of order dated 8.11.2006, directing District Magistrate, Sultanpur that the petitioner is entitled to the service benefits and regularization.

5. Learned counsel for the petitioner submits that not providing the benefit of the judgment of this Court in the case of ***Kaushal Kishore Chaubey and 4 Others Vs. State of U.P. and 2 Others*** passed in Writ -A No. 5817 of 2020 (decided on 08.10.2021) is illegal and arbitrary as well as contrary to the law laid down in aforesaid judgment and order as well as Hon'ble Supreme Court in Civil Appeal No.6118 of 2024 dated 7th May, 2024 in the case of ***Anand Prakas Mani Tripathi Vs. State of U.P. and others.***

6. It is stated that persons similarly placed who were initially appointed as Seasonal Collection Peon, had approached this Court for similar relief. This Court after considering entire conspectus of the matter has given following finding :-

"24. In view of the above discussion and given the law elucidated by the Apex Court as well as by this Court in various pronouncements referred above, the services rendered by the petitioners as Seasonal Collection Amin cannot be ignored for extending the benefits of pension and other retiral benefits to them on the pretext that their appointment is to be treated from the date of regularisation and nor from the date of their engagement as work charged employee.

25. Consequently, the writ petitioner is allowed. A writ of mandamus is issued to the respondent to compute pensionary benefit payable to the petitioners after taking into account their entire service including the service rendered by them as Seasonal Collection Amin. The amount payable to the petitioners shall be computed within three months from the date of presentation of a copy of this order downloaded from the official website of Allahabad High Court, and the same shall be paid within the next two months. The respondents shall also continue to pay current pensionary benefits as and when the same fell due."

7. Learned counsel for petitioner has also placed reliance upon the judgment of Hon'ble Supreme Court passed in the case of ***Lt. Col. Suprita Chandel Vs. Union of India (Civil Appeal No.***

1943 of 2022) dated 09.12.2024 where Hon'ble the Supreme Court has held that the State Government should extend the benefit of directions of the courts to all the government servants so that all the government servants do not approach in the court for seeking similar benefits, Paragraph nos. 14 & 15 are quoted as under:-

" 14. It is a well settled principle of law that where a citizen 10 aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court. [See Amrit Lal Berry vs. Collector of Central Excise, New Delhi and Others, (1975) 4 SCC 714]
15. In K.I. Shephard and Others vs. Union of India and Others, (1987) 4 SCC 431, this Court while reinforcing the above principle held as under:- ?19. The writ petitions and the appeals must succeed. We set aside the impugned judgments of the Single Judge and Division Bench of the Kerala High Court and direct that each of the three transferee banks should take over the excluded employees on the same terms and conditions of employment under the respective banking companies prior to amalgamation. The employees would be entitled to the benefit of continuity of service for all purposes including salary and perks throughout the period. We leave it open to the transferee banks to take such action as they consider proper against these employees in accordance with law. Some of the excluded employees have not come to court. There is no justification to penalise them for not having litigated. They too shall be entitled to the same benefits as the petitioners. (Emphasis Supplied)"

8. Learned Standing Counsel on the other hand has opposed the writ petition and has submitted that relief sought by the petitioner cannot be granted as the services rendered by him as Seasonal Collection Peon cannot be counted towards computing his length of service for pensionary benefits and the petitioner had never worked as regular employee. It is stated that the petitioner was appointed as Collection Peon on substantial capacity and his services rendered previously cannot be considered for grant of pensionary benefits and his regular services can be counted only from the date of his regularisation and not previously.

9. Heard learned counsel for the parties and perused the record.

10. It is noticed that coordinate Bench of this Court in the case of ***Kaushal Kishore Chaubey*** (supra) has considered the entire conspectus of the controversy and has taken into consideration

various judgments and in the case of similarly situated Seasonal Collection Amins has observed that the services rendered by them as Seasonal Collection Amin will also be counted towards calculation of pensionary benefits of such persons.

11. It is further noticed that on the previous date this Court had granted time to learned Standing Counsel to inform this Court as to whether judgment in the case of ***Kaushal Kishore Chaubey*** (Supra) has attained finality. Learned Standing Counsel submits that he could not obtain any instructions in this regard.

12. Considering that the case of the petitioner is squarely covered by the judgment of coordinate bench of this Court in the case of Kaushal Kishore Chaubey (supra) and there is no reason as to why same benefit cannot be granted to the petitioner. Accordingly, present writ petition is liable to be allowed in terms of the directions issued in the case of ***Kaushal Kishore Chaubey*** (supra).

13. In view of the above, the services rendered by the petitioner as Seasonal Collection Peon cannot be ignored for extending the benefits of pension and other retiral benefits to them on the pretext that his appointment is to be treated from the date of regularisation and not from the date of his engagement as work charged employee. Consequently, the writ petition is **allowed.**

14. A writ of mandamus is issued to the respondents to compute pensionary benefit payable to the petitioner after taking into account his entire service including the services rendered by him as Seasonal Collection Peon. The amount payable to the petitioner shall be computed within three months from the date of presentation of certified copy of this order and the same shall be paid to him within the next two months. The respondents shall also continue to pay current pensionary benefits as and when the same fell due.

(Alok Mathur, J.)

Order Date :- 20.12.2024
RKM.

Digitally signed by :-
RAKESH KUMAR MAURYA
High Court of Judicature at Allahabad,
Lucknow Bench