

Neutral Citation No. - 2025:AHC:53384

Reserved on 09.04.2025

Delivered on 11.04.2025

Court No. - 6

Case :- WRIT - A No. - 4160 of 2025

Petitioner :- Pankaj Kumar And 11 Others

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Sr. Advocate, Vineet Kumar Singh

Counsel for Respondent :- Akanksha Sharma, C.S.C.

Hon'ble Saurabh Shyam Shamshery, J.

1. This is second round of litigation, petitioners have earlier approached this Court by way of filing Writ-A Nos. 15776 of 2023 and 16010 of 2023, and vide judgment dated 29.01.2024, said writ petitions were disposed of with certain directions. For reference paragraphs no. 29, 30 and 31 of it are reproduced hereinafter:-

“29. Accordingly impugned orders dated 05.09.2023 and 08.09.2023 are hereby set aside. Respondents are directed to permit petitioners to join their services at their respective places within three weeks from today. Petitioners are directed to submit separate certified copy of this judgment within a week from today.

*30. The writ petitions are **disposed of** with further direction that from the period of impugned orders till the date of joining, since petitioners have not worked, therefore, in view of principle of “no work no pay” they will not be entitled for salary for that period, however, their services will be treated in continuity on notional basis.*

31. In aforesaid circumstances, it is also observed that in further recruitment process a column, namely, “status of result” may also be included in the application form so as to facilitate the candidates whose result are awaited and likely to be declared in a short period, if there is no legal impediment.”

2. It is brought on record that aforesaid judgment was challenged by aggrieved parties in various Special Appeals and by a common judgment dated 24.04.2024, the Division Bench of this Court has dismissed said Special Appeals.

3. It is further brought on record that a further challenge by State before Supreme Court was also failed since vide order dated 23.08.2024, Special Leave Petition (Civil) Dairy No. 34039/2024 was dismissed by following order:-

“ 1 Delay condoned

2 Intervention allowed

3 There is no dispute that as on the extended date for filing applications, the respondents were duly qualified. It is not in dispute that the Government Order dated 18th December 2015 extending the time to file applications by 15th January, 2016 was not under challenge before the High Court. Further, there is no dispute that as on the extended date for filing applications, the respondents were duly qualified and that they were duly selected for appointment after participating in a competitive selection process. Also, it cannot be overlooked that the respondents put in more than 7 (seven) years of service before they were terminated. The Division Bench of the High Court, considering these factors, rightly upheld the decision of the learned Single Judge while at the same time clarifying that such decision shall not be treated as a precedent.

4 We are, thus, not inclined to interfere with the impugned judgment(s) and order(s) of the High Court; hence, the special leave petitions are dismissed.

5 Pending applications, if any, stand disposed of.”

4. Shri H.N. Singh, learned Senior Advocate, assisted by Sri Vineet Kumar Singh, learned counsel for petitioners, submitted that petitioners have approached this Court that in the garb of challenge before Division Bench of this Court and Supreme Court, judgment dated 29.01.2024 was not complied with, i.e., petitioners were not granted appointment within three weeks after said order was passed, despite contempt proceedings and they were finally allowed to join later on vide order dated 14.10.2024, therefore, petitioners are entitled for payment of salary, after three weeks from the date of judgment dated 29.01.2024 till they were allowed to join, i.e., 14.10.2024.

5. Learned Senior Advocate referred following part of order dated 15.10.2024 whereby Contempt Application (Civil) No. 1655 of 2024 was disposed of:-

“As the opposite parties were pursuing remedies against the order passed by the Writ Court, no wilful disobedience can be imputed to the opposite parties in failing to allow the applicants to join within three weeks as stipulated in the order of the Writ Court. So far as the claim of the applicants for arrears of salary from February, 2024 till the date of their joining is concerned, the applicants may exercise other legal remedy available to them in law. It is not a case to proceed under the Contempt of Courts Act, 1971.

The contempt application is disposed of.”

6. This Court has passed following order on 07.04.2025:-

“1. Heard Sri H.N. Singh, learned Senior Advocate assisted by Sri Vineet Kumar Singh, learned counsel for petitioners and Sri Ananya Shukla, Advocate holding brief of Sri Akanksha Shaarma, Advocate for Respondents-2, 3 and 4.

2. Let Respondent-3, Basic Education Officer, Moradabad shall appear in person on 09.04.2025 at 12.00 Noon to explain why order dated 29.01.2024 is complied at a belated stage as well as that petitioners were not paid salary for about two and half months when they joined on 15.10.2024.

3. Put up on 09th April, 2025 at 12.00 Noon.”

7. In pursuance of above order District Basic Education Officer, Moradabad has filed a personal affidavit that there was no intentional delay in complying the judgment passed by this Court. Concerned respondents were pursuing legal remedies firstly before Division Bench of this Court and thereafter before Supreme Court and this could be a valid ground that the judgment passed by this Court was not complied within time prescribed.

8. Ms. Akansha Sharma, learned counsel appearing for Respondents-2, 3 and 4, submitted that contempt proceedings were also dropped. The principle of “no work no pay” would also be applicable in the present case. So far as grievance with regard to payment of salary for the period of two and half months is concerned, it will be considered and same will be paid within a very short period on basis of verification and after completing the formalities, if already not completed.

9. I have heard learned counsel for parties and perused the material available on record.

10. There is no dispute that judgment passed by this Court dated 29.01.2024 was upheld upto the Supreme Court on 23.08.2024. Therefore, the direction that petitioners be permitted to join there services at respective place within three weeks from the date of judgment, i.e. 29.01.2024, was immediately not complied with and it was complied later on 14.10.2024, i.e., after about eight months and since petitioners have not worked for said period, therefore, no salary was paid to them.

11. The contempt proceedings were also dropped though a liberty was granted to raise claim by way of filing a writ petition, which was raised in present writ petition.

12. In the present case, this Bench has passed judgment dated 29.01.2024. Special Appeals were filed with small delay which were condoned and all Special Appeals were later on dismissed vide order dated 24.04.2024 and thereafter Special Leave Petition was also filed before Supreme Court with a short delay, which was also condoned by Supreme Court and Special Leave Petition was dismissed vide order dated 23.08.2024. Therefore, within a very short period of seven months, challenge upto the Supreme Court was concluded and judgment dated 29.01.2024 was confirmed. It cannot be held that respondents have intentionally delayed to comply the directions passed by this Court. They have a legal remedy to challenge the judgment passed by this Court upto Supreme Court and they have availed it.

13. The Court also takes note that delay in filing Special Appeals and Special Leave Petition was condoned as well as contempt proceedings were also dropped. Therefore, the delay to allow petitioners to join their services has sustainable reasons.

14. The Court also takes note that immediately after dismissal of Special Leave Petition, i.e., 23.08.2024, petitioners were allowed to join on 14.10.2024, i.e., within about eight weeks, therefore, such delay is also condonable. In view of above, prayer for payment of salary for said period has no legal basis.

15. Petitioners are also aggrieved that they have not paid salary for a period of about two and half months after their joining and said grievance has substance.

16. Therefore, this writ petition is **disposed of** with direction that salary for the period of about two and half months shall be paid to petitioners within a period of eight weeks from today, after verifying and completing the formalities, if any. In case salary remained unpaid after aforesaid period, it will invite interest at the rate of 6% per annum till actual payment is made.

Order Date :- 11.04.2025

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