

Court No. - 4

Case :- WRIT - A No. - 19277 of 2024

Petitioner :- Amrendra Kumar Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Neelam Singh

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar,J.

1. Heard learned counsel for the parties.

2. Petitioner, who is Head Constable in Civil Police, wants that the training period, which he had undergone as Constable, should be taken into account towards calculating 19 years of service to give service benefit in terms of one additional pay increment in terms of the Government Order dated 02.12.2020.

3. Learned counsel for the petitioner submitted that the controversy in this regard has no more res-integra in view of the judgment of this Court in the case of **Ghanshyam Tiwari & Ors v. State of U.P. & Ors in Writ - A No. 44330 of 2012**. On the basis of judgment in the case of Ghanshyam Tiwari another writ petition being Writ - A No. 48601 of 2015 came to be allowed by this Court on 26.05.2016 against which State filed Special Appeal Defective No. 538 of 2016 which was disposed of vide order dated 07.09.2016 with following observations in the penultimate paragraph of order which runs as under:

"Counsel for the appellants submits that the training period in case of writ petitioners has already been taken into consideration for grant of one additional increment and, therefore, the question of counting the said period once again for the purpose of granting one additional increment does not arise. We are not entering into this controversy and observe that the order of the learned Single Judge does not contemplate extending the benefit of counting the training period of the petitioners twice."

4. The State, being not satisfied, preferred **Special Leave to Appeal (C) CC No. 6316/ 2017** which too came to be dismissed on 03.04.2017.

5. Learned counsel for the petitioner, therefore, submits that petitioners' training period deserves consideration in computing the 19 years' service for the purpose of one

additional increment. Learned counsel for the petitioner has further submitted that in the matter of **Ram Jeet Tiwari (Writ - A No. 14282 of 2021)** a concurrent bench of this Court disposed of the petition with a direction to the authorities to count the training period towards the qualifying period of 19 years for availing benefit of one additional increment. This order passed by a coordinate bench in Ramjeet Tiwari case came to be challenged in Special Appeal by State of U.P. & Ors being **Special Appeal No. 172 of 2023** which also came to be dismissed. The Court dismissing the special appeal made following observations vide paragraph nos. 24, 25, 26 & 27 thus:

"24. Our view further stands amplified from the judicial pronouncement of this Court in the case of Constable 88 CP Lal Babu Shukla (supra), Ghanshyam Tiwari (supra) and Virendra Kumar (supra) which was carried in intra-court appeal and ultimately in Special Leave Petition before the Hon'ble Apex Court wherein the view of the learned Single Judge granting benefit of the period undergone as a trainee for the payment of promotional pay scale, ACP and increments was upheld.

25. As regards the submission of Sri Goyal learned Additional Advocate General appearing for the State appellants that in the wake of the provisions contained under the U.P. Police Regulations the period post absorption and appointment on permanent and regular capacity is only to be taken into consideration for payment of ACP concerned, is preposterous for the simple reason that there is no provision in the regulations which restricts or forbids for counting of the period undergone as a trainee by the recruits. More so, a recruit who undergoes training is entitled to get counted the period undergone as a trainee only when he successfully completes the training and is absorbed in permanent and regular capacity as a police constable.

Here, in the present case, there is no dispute of the fact that the writ petitioners have already completed their training period and they have been absorbed as constables in regular and permanent capacity . There is, thus, no justification to denude the writ petitioners from the benefit of counting of the services undergone as a trainee for the payment of additional increment.

26. Much emphasis has been laid upon by the learned Additional Advocate General appearing on behalf of the State appellants that the circular dated 08.11.1965 is contrary to the provisions contained under the Police Act, 1861 and the Police Regulations and, thus, the analogy so sought to be suggested by the writ petitioners cannot be applied in the facts of the case, particularly when there is no provision for counting of the services undergone as a trainee for payment of additional increment. We may hasten to note that it is not the case of the appellants that the circular has been amended, modified or rescinded but in the opinion of the Court the said circular only supplements and fills in the gap with

respect to certain subjects which are not governed under the Police Act, 1861 or the Regulations. Moreover, the said objection of the State appellants cannot be accepted particularly when State appellants themselves issued a circular dated 21.07.2011 and have taken a policy decision post independence, for adding the services undergone by a recruit during training for the payment of ACP. The policy makers while issuing the circular dated 08.11.1965 were quite conscious and that is why a rider was appended thereto that the period of training undergone by a recruit for the payment of increments will only be counted provided the recruit successfully completes the training and was absorbed as a constable in regular and permanent capacity.

27. Viewing the case at hand from the four corners of law, an irresistible conclusion stands drawn that the learned Single Judge had not committed any error in directing the State appellants to consider the claim of the writ petitioners for grant of additional increments while taking into account the period undergone as a trainee."

6. *Per contra* it is argued by learned Standing Counsel appearing for the State that there is no government order that provides to take into account the training period towards the qualifying satisfactory service of 19 years for the purposes of one additional increment. It is argued that this stage of training is given prior to the stage of probation and, therefore, does not deserve to be counted towards the qualifying satisfactory service, as contemplated under the Government Orders. Learned Standing Counsel has relied upon an order of concurrent bench of this Court dated 29.03.2018 passed in Writ - A No. 8592 of 2018, Poonam Srivastava Siddharth v. State of U.P. & 3 Ors.

7. I have carefully gone through the order and I find that writ petition was filed by a Sub Inspector and while dealing with the claim of the petitioner in that case who was a Sub Inspector, State had opposed the writ petition on the ground that there was no provision for Sub Inspectors to count their training period to confer upon them additional increment. In that case learned Standing Counsel had argued that the order passed in Writ - A No. 24910 of 2006 was in respect of a Constable and not the Sub Inspector. It is worth noticing therefore, that the order passed in Writ - A No. 24910 of 2006 was relied upon in the case of Ghanshyam Tiwari while allowing the writ petition.

8. It is in these circumstances that the concurrent bench dismissed the writ petition of Poonam Srivastava Siddharth (*supra*) who was a Sub Inspector for availing

the period of training also towards qualifying service for one additional increment. The Court held that though no direction could be issued to count the petitioners' period of training who was admittedly Sub Inspector towards service for the purpose of one additional increment.

9. In view of the above, therefore, I find that the petitioners' claim stands on a right footing and after the judgment of Division Bench in Special Appeal No. 172 of 2023 nothing remains further to be argued for the State opposing the claim of the petitioner for inclusion of training period towards 19 years satisfactory qualifying service for availing one additional increment.

10. In view of the above, this petition stands ***disposed of*** with direction to respondent no. 3 to consider the claim of the petitioner for grant of one additional increment in the light of judgments discussed above and the observations made herein above in this judgment. Appropriate orders shall be passed within a period of two months from the date of production of certified copy of this order.

Order Date :- 17.2.2025

Deepika