IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No.737 of 2020 (S/S)

Vinod Gusain ……Petitioner

Versus

State of Uttarakhand and others ….Respondents

Present: Mr. M.S. Rawat, Advocate for the petitioner.
Mr. P.S. Bisht, Standing Counsel for the State of Uttarakhand.
Mr. Yogesh Kumar Pacholia, Advocate for respondents nos.3, 4 & 5.

Hon'ble Sharad Kumar Sharma, J.
(via Video Conferencing)

The writ petition has been preferred by the petitioner, who is working as a Computer Operator, with effect from 01.11.2003, with the respondents on contractual basis.

2. The contention of the learned counsel for the petitioner is that ever since 2014, he has been working satisfactorily with the respondents as Computer Operator, but despite of various efforts made by him, the claim of regularization as well as for the payment of minimum of pay scale, has not been considered so far. In support of his contention, the petitioner has submitted that the Board by virtue of its Resolution No.5(1) dated 11.09.2017 passed in relation to other contractual employee had recommended to the Director i.e. respondent no.2, to take an appropriate decision for the purposes of grant of regular status, as well as for the payment of minimum of pay scales. In pursuance to the said communication the Director Local Bodies, has responded back to the Executive Officer on 11.12.2017; expressing its inability to consider the claim for regularization and payment of minimum of pay scale because for the reason being that the State is not according approval for the claim raised

by the petitioner and as approved by the Municipal Board vide its resolution dated 11.09.2017.

3. The counsel for the petitioner has submitted that the issue would stand covered by the judgments rendered by this Court, on which he has placed reliance particularly those as rendered in Writ Petition No.3178 of 2018 whereby, by the judgment of 12.09.2018, the writ petition was disposed of with a direction to Executive Officer; of the Municipality, to consider the representation in the said case, for the grant of the benefit of minimum of pay scale, as well as for considering the claim for regularization if at all it is sustainable in accordance with law. The direction issued therein was in the light of the judgment of the Hon'ble Apex Court as reported in **2017 (1) SCC 148 Jagjeet Singh vs. State of Punjab.** He has further made reference to yet another judgment, which was rendered by this Court in a bunch of writ petition with a leading writ petition being Writ Petition No.670 of 2018 as decided under the same terms and conditions by the judgment dated 07.01.2019. The relevant part of the judgment dated 12.09.2018 is quoted hereunder:-

> "Considering the fact that they have rendered their services for a sufficient long time, they have prayed for that the benefit of the ratio as propounded by the Hon'ble Apex Court in the judgment rendered in 2017(1) SCC 148 'Jagjit Singh vs. State of Punjab' may be extended to them and another case is covered by the said judgment, also that since they have already worked for about a decade they may be considered for regularization. The petitioners contend that despite of the fact that they have representing consistently before the respondents but no heed has been paid on their representation. Consequently, they were constrained to file the present Writ Petition for seeking the appropriate direction. This Writ Petition is being disposed of with the direction to the Executive Officer to consider and pass an order on their representation dated 16.02.2018 considering the impact of the

> Government Order dated 22.11.2016 and other Government Orders as prevalent at the relevant time and pass an appropriate order within six weeks from today."

4. In the instant case also the petitioner had already submitted his representation for deciding the claim as raised in the writ petition before the respondents on 04.07.2020 and the same is still pending consideration and no decision as such has been taken on it. This writ petitions would too stand disposed of in terms of the judgment rendered by this Court on 12.09.2018 in Writ Petition No.3178 of 2018 and that as rendered in Writ Petition No.669 of 2018. The respondents are directed to consider and pass an appropriate order in accordance with law with regards to the claim raised by the petitioner in the present writ petition within a period of six weeks from the date of presentation of certified copy of the order. However, it is expected by this Court, that the respondent nos.1 and 2, would reasonably consider the proposal recommended by the Nagar Palika in its Board's Resolution for considering claim of petitioner for regularization as well as for payment of minimum of pay scale, in accordance with law.

5. Subject to the aforesaid directions, the writ petition stands disposed of accordingly.

(Sharad Kumar Sharma, J.)
24.07.2020

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