2024:UHC:9507

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE, SHRI JUSTICE MANOJ KUMAR TIWARI

Writ Petition (S/S) No. 797 of 2023

13th December, 2024

Vinay Kumar Sharma --Petitioner

Versus

Wildlife Institute of India
Through Director and others --Respondents

With

Writ Petition (S/S) No. 798 of 2023
Writ Petition (S/S) No. 799 of 2023
Writ Petition (S/S) No. 800 of 2023
Writ Petition (S/S) No. 802 of 2023
Writ Petition (S/S) No. 804 of 2023
Writ Petition (S/S) No. 805 of 2023
Writ Petition (S/S) No. 806 of 2023
Writ Petition (S/S) No. 807 of 2023
Writ Petition (S/S) No. 808 of 2023
Writ Petition (S/S) No. 809 of 2023
Writ Petition (S/S) No. 831 of 2023

Presence:-
Mr. M.C. Pant, learned counsel for the petitioners
Mr. Vikas Pande, learned counsel for the respondents

JUDGMENT

1. Since common questions of law and facts are involved in these writ petitions, therefore they were heard together and are being decided by a common judgment. However, for the sake of brevity, facts of Writ Petition (S/S) No. 797 of 2023 alone are being considered and discussed. Petitioner in WPSS No. 797 of 2023 has sought the following reliefs: -

"(1) Issued writ rule or direction in the nature of certiorari to

declare the act of the respondents by treating the date of regularization of petitioner w.e.f. 31.10.2018 vide WII's letter WII/ADM/2022/58 dated 28.12.2022 is arbitrary, irrational and unjust, and also discriminating so far as denying the benefits of Assessment, Promotions, Career Progression with all service intakes and, more importantly the benefits of OPS by not counting the entire length of service w.e.f. initial date of appointment and, also to correct the same after calling entire records from the respondents along with its effect and operations or to mould the relief appropriately by safeguarding the interest of the petitioner. (ANNEXURE. NO.1)

(ii) Issued writ rule or direction in the nature of mandamus to declare the petitioner is entitled for all consequential service benefits viz., a). Old Pension Scheme; b). Assessment & Promotions; and c). Admissibility of Arrears, Leaves, PF and other admissible allowances/benefits with effect from his initial date of appointment i.e. 01.10.1996.

(iii) To award damages/compensation as deem fit and proper by this Hon'ble Court to quantify for the petitioner against the malicious and discriminating act of respondents and, direct to be recovered from the erring officers, who are instrumental for such type of unfair labour practice act."

2. Petitioners were engaged on contract in Wildlife Institute of India at Dehradun. Pursuant to judgment rendered by coordinate Bench of this Court, regularization orders were passed in respect of the petitioners, whereby they were given regularization w.e.f. 31.10.2018.

3. Since services rendered by petitioners before their regularization are not being taken into account for calculating their retiral dues, therefore, petitioners have approached this Court.

4. Mr. M.C. Pant, learned counsel appearing for petitioners relied upon judgment rendered by Hon'ble Supreme Court in the case of State of Himachal Pradesh & Another Vs. Sheela Devi, SLP (Civil) No. 10399/2020, for contending that services rendered on contract basis are also liable to be taken

into account for pension and monetary benefit. He has also relied upon a judgment rendered by Hon'ble Punjab and Haryana High Court in the case of Som Nath & others Vs. State of Punjab and others (CWP No. 1432 of 2012) which, according to him, was affirmed by Hon'ble Supreme Court.

5. Per contra, Mr. Vikas Pande, learned counsel appearing for Wildlife Institute of India submits that as per CCS Pension Rules, 1972, services rendered in regular capacity alone is to be taken into account for pension and monetary benefits. He submits that before 2018, status of the petitioners was that of a contractual employee, therefore, they are not eligible for pension for the services rendered before 2018. He further submits that the judgment relied upon by petitioner are distinguishable on facts. He further submits that petitioners are still serving, except petitioner in Writ Petition (S/S) No. 798 of 2020, who passed away and his legal heirs have been substituted.

6. Since the competent authority is yet to take a decision, as to whether the services rendered by petitioners before regularization of their services are to be taken into account for determining the amount payable to them as pension, therefore, this Court thinks that ends of justice would be met, if petitioners are permitted to approach the competent authority by making representation(s).

7. Accordingly, the Writ Petitions are disposed of with liberty to petitioner(s) to make representation(s) to competent authority. If petitioner(s) makes

representation(s), within three weeks from today, decision thereupon shall be taken within five months from the date of receipt of representation(s) along with certified copy of this order. It shall be open to petitioners to raise all contention and cite all judgments in support of their claim in the representation(s).

8. This Court hopes and expects that the competent authority shall take decision independently, without being influenced by the defence taken in the counter affidavit.

(Manoj Kumar Tiwari, A.C.J.)

13th December, 2024
Mahinder

MAHINDER SINGH

Digitally signed by MAHINDER SINGH
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