
(2011) 02 AHC CK 0302
In the Allahabad High Court
Case No : Service Single No. 617 of 2011

Amar Singh Rathaur

APPELLANT

Vs

The State of U.P.

RESPONDENT

Date of Decision : 04-02-2011

Acts Referred:

Citation : (2011) 02 AHC CK 0302

Hon'ble Judges : Ritu Raj Awasthi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ritu Raj Awasthi, J.—Heard learned Counsel for the Petitioner as well as the learned Standing Counsel and perused the record.

2. The present writ petition has been filed on behalf of the Petitioner claiming regularization on the post of Tubewell Operator.

3. Learned Counsel for the Petitioner has submitted that the State Government has promulgated the U.P. Irrigation Department Regularization of Part-time Tube-well Operators on the post of Tube-well Operators Rules, 1996, which have been amended by the subsequent amendment in the year 2008 i.e. the Uttar Pradesh Irrigation Department Regularization of Part-time Tube-well Operators on the post of Tube-well Operators (First Amendment) Rules, 2008. The cut off date was initially 1.10.1986 and after amendment it was extended to 30.6.1998.

4. Learned Counsel for the Petitioner submits that the service of the Petitioner was terminated by order dated 3.12.1986, which was challenged in the Writ Petition No. 1550 (S/S) of 1987, the said writ petition was allowed by order dated 11.8.1999, in terms of the judgment and order dated 1.1.1990, passed in Writ Petition No. 2246 of 1986, Ajay Kr. Srivastava v. Executive Engineer, Nalkoop Khand, Sitapur and Ors. .

5. It is informed to the Court that during the pendency of the said writ petition,

there was an interim order dated 1.7.1987, in favour of the Petitioner, however, the Petitioner was allowed to resume his work on 13.7.2000. The learned Standing Counsel submits that at the time of commencement of the said rules, the Petitioner was not in service and he was allowed to work only from 13.7.2000 and, therefore, he is not entitled to be considered for regularization under the aforesaid rules.

6. I have considered various submissions made by the learned Counsel for the parties.

7. It is the admitted position that against the termination order the Petitioner had filed a writ petition, which was allowed by order dated 11.8.1999, with the observation that the Petitioner shall be entitled to be given the benefit of the judgment and order dated 1.1.1990, passed in the Writ Petition No. 2246 of 1986. In the said judgment it was provided that the Petitioner shall be retained in service and paid salary accordingly and other consequences will follow. There was also an interim order dated 1.7.1987, operating in favour of the Petitioner. Therefore, it is totally wrong on the part of the opposite parties not to give the benefit of continuity in service to the Petitioner for the purpose of considering them for regularization in the service. The Petitioner is fully eligible and entitled to be considered for regularization under the aforesaid rules.

8. In view of the above, the writ petition is allowed.

9. The opposite parties are directed to consider the case of the Petitioner for regularization in the service, in accordance with the relevant service rules, within a period of four months from the date of receipt a certified copy of this order.