

(2025) 07 AHC CK 0761
In the Allahabad High Court
Case No : Writ Petition A No. 12082 Of 2018

Anand Prakash Tripathi And 4 Others	Vs	APPELLANT
State Of U.P. And 5 Others		RESPONDENT

Date of Decision : 10-07-2025

Acts Referred:

Constitution of India, 1950 — Article 14
Road Transport Act, 1950 — Section 3

Citation : (2025) 07 AHC CK 0761

Hon'ble Judges : Saurabh Shyam Shamshery,J

Bench : Single Bench

Advocate : Ajay Kumar Srivastava, Samir Sharma, Sunil Kumar Misra

Final Decision : Dismissed

Judgement

Saurabh Shyam Shamshery, J

1. Heard Sri Samir Sharma, learned Senior Counsel assisted by Sri Ajay Kumar Srivastava, learned counsel for the petitioners and Sri Ayush Mishra, holding brief of Sri Sunil Kumar Misra learned counsel for respondents.

2. The petitioners (5 in number) were appointed at Uttar Pradesh State Road Transport Corporation by respective orders dated 06.09.1981, 27.03.1982, 22.05.1982 and 26.09.1981. Some of the petitioners were already retired when this writ petition was filed in the year 2018 and remaining petitioners must have retired during pendency of this writ petition.

3. They were well aware from very inception of recruitment that they were not benefited with any pension scheme still they have approached this Court at the fag end of their respective service, when some of petitioners have already got retired with following prayers :-

“(i) issue a writ, order or direction in the nature of CERTIORARI, calling for the record and quashing the impugned Government Order No. dated

1470-30-2-2004-218/96 dated 23.10.2004 to the extent it has fixed the cut-off date i.e. 19.06.1981, providing for payment of pension to only those employees who were appointed on those posts of the UPSRTC, which were pensionable in U. P. Government Roadways, between 01.06.1972 to the date of coming into force of the Service Regulations, 1981, i. e. 19.06.1981.

ii) issue a writ, order or direction in the nature of MANDAMUS commanding the opposite parties to treat the cut-off date as 28.07.1982, instead of 19.06.1981, and accordingly pay the pension and other retirement benefits to the petitioners consequent upon their retirement from service after attaining the age of superannuation of 60 years and pay the same as and when it falls due, including arrears thereof along with interest at the current market rate, within a specified period of two months."

4. Sri Sameer Sharma, learned Senior Counsel assisted by Sri Ajay Kumar Srivastava, learned counsel for petitioners argued at length and his submissions and arguments on facts and law are briefly mentioned hereinafter :-

(a) Initially the transport services in the State of U.P. were provided by a department namely, U.P. Government Roadways and thereafter U.P. State Road Transport Corporation was created with effect from 01.06.1972 under Section 3 of Road Transport Act, 1950.

(b) The employees of erstwhile U.P. Government Employees Transport Corporation, U.P. Government Roadways were treated to be on deputation to the Corporation.

(c) The process of framing service regulation were finally crystallized in the year 1981, viz Uttar Pradesh State Road Corporation Employees (Other Than Officers) Service Regulation, 1981, notified in U.P. Gazette dated 19.06.1981.

(d) In pursuance of said regulations options were invited for absorption and erstwhile employees were absorbed with effect from 28.07.1982.

(e) The Board of Director of Corporation in its 124th meeting held on 29.10.1992 granted approval of payment for pension to all those employees who were appointed between 01.06.1972 upto 28.07.1982 on posts which were pensionable in the U.P. Government Board Roadways.

(f) Similarly a G.O. dated 19.08.1993 was passed that the employees of erstwhile U.P. Government Roadways, who had worked on pensionable post prior to their absorption in the Corporation (i.e. with effect from 28.07.1982) would be entitled for payment of pension subject to certain conditions. Similarly a circular dated 20.04.1999 was also passed.

(g) On 23.10.2004, a Government order was passed, whereby State Government granted approval for payment of pension to those employee who were appointed in Corporation (on posts which which were pensionable in U.P. Government Roadways) between 01.06.1972 to date when the Service Regulation, 1981 came

into force i.e. 19.06.1981 and since all the petitioners were appointed subsequent to the aforesaid date, therefore, they were not entitled for pension. The aforesaid cut off dates are essentially impugned in present writ petition after many years i.e. 18 years.

5. Learned Senior Counsel has further vehemently argued that aforesaid classification amounts to hostile discrimination and vehemently submitted that all employees who were appointed on non-pensionable posts in the corporation after 19.06.1981 and were promoted on pensionable posts in the department even between 01.06.1971 and 28.07.1982 were entitled to get pension, however, petitioners who were appointed between the said period i.e. after 19.06.1981 but before 28.07.1982 were held to be not entitled for pension and as such it creates two service conditions for the same post, therefore, it was argued that it amounts to hostile discrimination. The cut-off date ought to be 28.07.1982

6. Learned Senior Counsel for petitioner submits that twin test of a classification to be reasonable are that classification must be based on intelligible differentia which must have a reasonable nexus to the object sought to be achieved, however, both parameters were missing in present case and he placed reliance on judgment passed in All Manipur Pensioners Association by its Secretary Versus State of Manipur and others (2020) 14 SCC 625, Ramesh Chandra Sharma and others vs. State of U.P. and others, 2023 (2) ADJ 223 SC, Dr. Surendra Pratap Yadav Vs. State of U.P. and another, 2023 (2) ADJ 488, Union of India v SPS Vains (2008) 9 SCC 125, Writ (S S) No. 2306 of 2004 Ram Dular and 13 others vs. State of U.P. and others decided on 25.08.2021.

7. Learned Senior Counsel also referred that Employee Service Regulation, 1981, notified on 09.06.1981 are applied uniformly to existing employees i.e. those even appointed prior to 19.06.1981 and also on existing employees i.e. petitioners. He further submits that even though Regulation 39(1) applies to all employees of the Corporation appointed after 01.06.1972, yet the G.O. dated 20.10.2004 grants pension to employees of the Corporation appointed from 01.06.1972 till 19.06.1981. Thus, the cut-off date 19.06.1981 is discriminatory and in teeth of Regulation 39(1) read with Regulation 4(2).

8. Learned Senior Counsel in order to defend that there is no delay in approaching this Court has placed reliance on Asgar Vs. LIC, (2016) 13 SCC 797 that in case of recurring service claims i.e. pension, mere delay alleged will not be fatal as it does not have any adverse effect on third party rights.

9. Per contra, learned counsel appearing on behalf of corporation submits that not only petitioners have approached this Court at a very belated stage despite they were well aware about the impugned notification passed in the year 2004 and since admittedly all petitioners were appointed after cut off date i.e. date when regulations of 1981 came into force, therefore, they are not entitled for pension. The petitioners are of a group which were appointed after the regulations of 1981 came into force whereas the other employees were already

entered into service much prior to the appointment of petitioners, therefore, they form a separate group and since they were born in a pensionable cadre or post, therefore, pension was protected even on promotion, their source of appointment were different, therefore, there is no arbitrariness. The classification has intelligible differentia as well as that matter of pension has financial implication, therefore, the same may not be granted contrary to existing provisions. Petitioners are trying to create an artificial similarity with the erstwhile employee who were promoted between 19.06.1981 to 27.07.1982

10. Heard counsel for parties and perused the record.

11. As referred above, all the petitioners were appointed after cut off date i.e. 19.06.1981, when the Uttar Pradesh State Road Transport Corporation employees (Other Than Officers Service Regulation, 1981), came into force with effect from 19.06.1981.

12. Petitioners are essentially aggrieved that employees of erstwhile U.P. Government Roadways who were absorbed till 28. 07.1982 i.e. after the cut off date as well as promoted on post where petitioners were appointed were granted pension, however, petitioners who were directly appointed to the said post between the said period i.e. 19.06.1981 to 27.07.1982 were not granted pension.

13. It is not under much dispute that said employees were appointed much prior to petitioners between 01.06.1972 to 19. 06.1981 before the regulations of 1981 came into force with effect from 19.06.1981. A process was initiated to absorb such employees with the Roadways Corporation and for that purpose, date was extended and they were finally absorbed with effect from 28.07.1982, whereas petitioners are appointed by fresh recruitment process and they were not gone through the process of absorption.

14. The said process of absorption has no relation even remotely with the appointments of petitioners which were made subsequently as well as said erstwhile employees were given benefit of pension probably on a ground that they were born in a pensionable cadre or post, therefore, promotion of some of employees on basis of their early service on post of which the petitioners were subsequently appointed also become entitle for pension.

15. As referred above, employees who were appointed between 01.06.1972 to 19.06.1981 on pensionable posts were declared to be entitled for pension and petitioners being subsequent to the said date were not entitled for pension. The benefit was granted to such old employee whose absorption was delayed and finally date was extended upto 28.07.1982. There is no ambiguity in the contents of said notification. The classification is based on two separate groups which has no interconnection between them. It is not under dispute that petitioners were born in a non pensionable post or cadre.

16. The Court is placing reliance on following paragraphs of State of State of Uttarakhand v. Sudhir Budakoti, (2022) 13 SCC 256 :-

“Classification test & Policy Decisions of the State

14. A mere differential treatment on its own cannot be termed as an “anathema to Article 14 of the Constitution”. When there is a reasonable basis for a classification adopted by taking note of the exigencies and diverse situations, the Court is not expected to insist on absolute equality by taking a rigid and pedantic view as against a pragmatic one.

15. Such a discrimination would not be termed as arbitrary as the object of the classification itself is meant for providing benefits to an identified group of persons who form a class of their own.

When the differentiation is clearly distinguishable with adequate demarcation duly identified, the object of Article 14 gets satisfied. Social, revenue and economic considerations are certainly permissible parameters in classifying a particular group. Thus, a valid classification is nothing but a valid discrimination. That being the position, there can never be an injury to the concept of equality enshrined under the Constitution, not being an inflexible doctrine.

16. A larger latitude in dealing with a challenge to the classification is mandated on the part of the Court when introduced either by the Legislature or the Executive as the case may be. There is no way, courts could act like appellate authorities especially when a classification is introduced by way of a policy decision clearly identifying the group of beneficiaries by analysing the relevant materials

17. The question as to whether a classification is reasonable or not is to be answered on the touchstone of a reasonable, common man's approach, keeping in mind the avowed object behind it. If the right to equality is to be termed as a genus, a right to non-discrimination becomes a specie. When two identified groups are not equal, certainly they cannot be treated as a homogeneous group. A reasonable classification thus certainly would not injure the equality enshrined under Article 14 when there exists an intelligible differentia between two groups having a rational relation to the object. Therefore, an interference would only be called for on the Court being convinced that the classification causes inequality among similarly placed persons. The role of the court being restrictive, generally, the task is best left to the authorities concerned. When a classification is made on the recommendation made by a body of experts constituted for the purpose, Courts will have to be more wary of entering into the said arena as its interference would amount to substituting its views, a process which is best avoided.

18. As long as the classification does not smack of inherent arbitrariness and conforms to justice and fair play, there may not be any reason to interfere with it. It is the wisdom of the other Wings which is required to be respected except when a classification is bordering on arbitrariness, artificial difference and itself being discriminatory. A decision made sans the aforesaid situation cannot be tested with either a suspicious or a microscopic eye. Good faith and intention are

to be presumed unless the contrary exists. One has to keep in mind that the role of the Court is on the illegality involved as against the governance.”

17. In the aforesaid circumstances, the Court is of the view that there is no arbitrariness in the action of respondents. An artificial similarity has no legal basis, therefore, the prayer in this writ petition is rejected and accordingly, instant writ petition is dismissed.