
(2009) 08 AHC CK 0021
In the Allahabad High Court

Ashok Kumar Pandey

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 20-08-2009

Acts Referred:

Citation : (2009) 08 AHC CK 0021

Hon'ble Judges : Devi Prasad Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Devi Prasad Singh, J.—Petitioners have been working on the post of Proof-reader, Sahayak S. Holder and Machine-man in the Rajya Gramya Vikas Sansthan now called as Deen Dayal Upadhyaya Gramya Vikas Prashiksha evam Shidh Sansthan, U.P. (in short hereinafter referred as Establishment). Petitioners were granted revised pay scale in pursuance to Pay Commission Report vide government order dated 31.8.1989. The revised pay scale granted to the petitioners have been canceled by the impugned order dated 29.3.1993 on the ground that no permission was accorded by the Finance Department with regard to payment of revised pay scale, feeling aggrieved the present writ petition has been preferred.

2. It has been stated by the petitioner that once the government order is issued for grant of revised pay scale then it is not open for the state authorities not to extend its benefit for any reason whatsoever. The other similarly situated persons have already been given revised pay scale in pursuance to Pay Commission Report.

3. It has also been stated that since petitioners were getting the revised pay scale for about three years hence cancellation of impugned order without providing opportunity of hearing or show cause notice is bad in law. Respondents should have clarify their stand with regard to payment of pay scale. It has also been stated that the petitioners are entitled for revised pay scale. It has also been stated in para 13 of the writ petition that various government orders have

been issued from time to time for grant of revised pay scale.

4. While assailing the impugned order it has also been stated that the petitioner No. 2 is performing and discharging duties on the post of Foreman (Composer) who possess higher pay scale i.e. 1350-2200. The decision taken by the respondents is based on unfounded facts. It has also been stated that the controversy in question relates to 5th Pay Commission and during the pendency of writ petition the petitioner has been provided the pay scale available in 6th Pay Commission Report.

5. At the face of record the impugned order seems to be passed after lapse of 6 years without providing opportunity of hearing or show cause notice. In case respondents were of the view that the revised pay scale granted to the petitioner is not in accordance with law or suffer from procedural irregularity then appropriate notice should have been served on the petitioners with regard to stand taken by the respondent State. In the absence of any notice served on the petitioner for cancellation of revised pay scale the impugned order seems to be violative of principle of natural justice.

6. Apart from above the submission of the learned Counsel for the petitioner is that the petitioner have already been granted pay scale revised as per 6th Pay Commission report. The impugned order was stayed by this Court.

7. Keeping in view the facts and circumstances of the case liberty may be given to the respondents to pass a fresh order. The impugned order is not sustainable.

8. In view of above, writ petition is allowed. A writ in the nature of certiorari is issued quashing the impugned order dated 29.3.1993 as contained in Annexure-7 to the writ petition with consequential benefits. Liberty is given to the respondents to pass afresh order keeping in view the service condition of the petitioner.

9. Writ petition is allowed accordingly. No order as to costs.