
(2015) 05 UK CK 0001

In the Uttarakhand High Court

Case No : Writ Petition No. 1670/2006 (M/S.)

Bharat Singh Rawat

APPELLANT

Vs

Industrial Tribunal and Others

RESPONDENT

Date of Decision : 20-05-2015

Acts Referred:

Citation : (2015) 147 FLR 163 : (2015) LLR 963

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Rajendra Dobhal, Senior Advocate assisted by Hrishik Lakhera, for the Appellant

Final Decision : Allowed

Judgement

Alok Singh, J—Present petition is filed assailing the award dated 14.7.2006, annexure No. 20 to the writ petition, passed by the Industrial Tribunal Uttaranchal, Haldwani, District Nainital and seeking writ of mandamus commanding the respondent authorities to convert the petitioner's posting from the post of Chowkidar/Beldar to the post of Stenographer in Uttaranchal Jal Sansthan, w.e.f. 4.7.1991 and to pay the salary and perks to the petitioner payable for the post of Stenographer in Uttaranchal Jal Sansthan. Undisputed brief facts of the present case, inter alia, are that petitioner was initially appointed as daily wager on muster roll on the post of Stenographer only for three months vide appointment letter dated 18.5.1987; however, petitioner continued to work as Stenographer even after the expiry of the period of three months; on 15.4.1990, Uttar Pradesh Jal Nigam was pleased to issue seniority list of Stenographers who were working in the department for the last less than five years wherein petitioner was shown as Stenographer; vide order dated 4.7.1991, petitioner was relieved by the U.P. Jal Nigam to give joining in the Kumaon Jal Sansthan on the post of Coolie, showing the petitioner as he was working as Coolie, in the U.P. Jal Nigam; thereafter, while working in Kumaon Jal Sansthan, services of the petitioner were regularized on the post of Chowkidar/

Beldar; petitioner gave joining under protest on the post of Chowkidar/Beldar after regularization of his services as is reflected from the letter dated 26.12.2003; petitioner kept on requesting Kumaon Jal Sansthan to give him joining on the post of Stenographer on which he was initially appointed in U.P. Jal Nigam, however, in vain; thereafter, on the request of the petitioner, reference was made on 28.5.2002 by the State of Uttarakhand to the Industrial Tribunal - As to whether relieving of the petitioner as Coolie vide relieving order dated 4.7.1991 was proper and legal, if not, what relief workman is entitled for; after receiving the reference, learned Industrial Tribunal was pleased to issue notices to both the parties; workman as well as employer submitted their respective statements, however, ultimately impugned award came to be passed against the petitioner; feeling aggrieved, petitioner has filed present writ petition.

2. I have heard Mr. Rajendra Dobhal, Senior Advocate assisted by Mr. Hrishik Lakhera, Advocate for the petitioner and Mr. Bhupendra Singh Bisht, Advocate holding brief of Mr. D.S. Patni, Advocate for respondent Nos. 2 and 3 and have carefully perused the record.

3. In view of the above undisputed facts, it is thus clear that petitioner was appointed as Daily Wager on the muster roll on the post of Stenographer initially for a period of three months in U.P. Jal Nigam, vide appointment letter dated 18.05.1987. Perusal of seniority list dated 15.04.1990 would also indicate that 3 petitioner was working as Stenographer in U.P. Jal Nigam on the date of issuing the seniority list dated 15.04.1990. On being asked repeatedly, learned counsel for the respondents could not point out as to when after 15.04.1990, petitioner was appointed as Coolie in the Jal Nigam. If petitioner was appointed as Stenographer vide appointment letter dated 18.05.1987 and was working as Stenographer on 15.04.1990, as reflected from the seniority list dated 15.04.1990, then as to how petitioner could be relieved vide order dated 04.07.1991 for the Kumaon Jal Sansthan for the post of Coolie, is not made clear by the respondents.

4. In my considered opinion, employee working on a particular post can be relieved from that post only and he cannot be relieved for giving joining in another department for the lesser post. Moreover, letter dated 26.12.2003, page No. 69 of the paper book, would also reveal that after regularization of the services of the petitioner, petitioner gave joining on the post of Chowkidar/Beldar only under protest because his request was pending disposal before the department to give him joining on the post of Stenographer on which he was initially appointed.

5. In Service Jurisprudence, service conditions cannot be reduced against the interest of the employee unilaterally nor any employee can be demoted without any reasonable cause and without giving him opportunity of being heard.

In the present case, there seems to be no cause or reason to demote the petitioner on the post of Chowkidar/Beldar.

In view of the discussion made hereinbefore, impugned award seems to be totally unjustified and arbitrary, therefore, does not stand in the scrutiny of law.

Consequently, writ petition succeeds and is hereby allowed. Impugned award is set aside.

Writ of mandamus is issued to the respondent Nos. 2 and 3 to give joining to the petitioner on the post of Stenographer within four weeks from today on which he was initially working and appointed before relieving. Since petitioner has not worked on the post of Stenographer, therefore, he is not entitled for the arrears of pay for the post of Stenographer. However, after giving joining on the post of Stenographer, petitioner shall be paid admissible salary and perks applicable to the post of Stenographer.