
(2012) 01 AHC CK 0641
In the Allahabad High Court
Case No : Service Single No. 1170 of 1995

Bhola Nath Gupta and Others	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 12-01-2012

Acts Referred:

Citation : (2012) 01 AHC CK 0641

Hon'ble Judges : Devendra Kumar Arora, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Hon"ble Devendra Kumar Arora, J.—Vakalatnama, filed by Sri S. C. Verma, on behalf of opposite parties no. 2 & 5, is taken on record.

2. During pendency of writ petition, petitioner no. 2 died and, therefore, writ petition stands abated so far as petitioner no. 2 is concerned.

3. Heard learned counsel for parties and perused the record.

4. By means of present writ petition, the petitioners have prayed for a writ in the nature of mandamus commanding the opposite parties to pay salary in regular payscale as admissible for the post of Machhuwa w.e.f. the date of their appointments i.e. 26.6.1991 along with arrears of pay and other allowances with interest.

5. Submission of learned counsel for petitioners is that the petitioners were initially engaged on daily wages basis on the post of Machhua by the Officerincharge of respective hatcheries in the year 1984 and they were being paid Rs. 240/per month @ Rs. 8/per month. Thereafter vide order dated 25..6.1991 petitioners were given appointments in the payscale of Rs. 7751067. The petitioners joined at their respective posts on 26.6.1991 in the office of opposite party no. 5 and the same was accepted vide order dated 01.7.1991. Further submission is that although petitioners were entitled for regular salary

but they were being paid Rs. 775/- as consolidated salary which was subsequently enhanced to Rs. 1085/per month.

6. The petitioners being aggrieved from inaction of opposite parties of not paying salary in regular payscale, approached this Court by way of filing Writ Petition No. 10089 (SS) of 1993 and this Court vide interim order dated 24.12.1993 as well as clarification order dated 17.5.1994, directed opposite parties to pay regular payscale to them as admissible for the post of Machhuwa.

7. It is also submitted that various persons approached this Court by way of filing different writ petitions in which directions were issued for giving minimum of payscale and thereafter regular salary was directed to be paid. Subsequently, their services have also been regularised but petitioners' services have not been regularised till date and they are being treated as Daily Wagers although more than 17 years have passed.

8. Learned counsel for opposite parties while opposing the writ petition, submitted that the Nonofficial Chairman of the U.P. Matasya Vikas Nigam vide order dated 25.6.1991, passed order for regularisation of services of petitioners after declaration of the Election. The State Government vide order dated 11.7.1991 directed all the Public Enterprises and the Corporations not to take any decision in respect of creation of posts, appointments and regularisation and if any decision has already been taken, the same is to be cancelled, if not in accordance with the Rules and procedures prescribed therefor. In this background, the order issued by the Nonofficial Chairman and the acceptance of joining was not given effect to. As such, claim of the petitioner is not sustainable.

9. Learned counsel for the petitioners, in his rejoinder affidavit, submitted that even otherwise the State Government has taken a policy decision on 08.9.2010 for regularisation of services of work charge and daily wages employees of Government Departments, corporations, development authorities. Avas Vikas Parishad and of public enterprises who were appointed prior to 29th June, 1991 and, as such, petitioners are now entitled for regularisation of their services in pursuance of the said policy decision.

10. Sri S. C. Verma, learned counsel for opposite parties no. 2 & 5 submitted that the proposal has already been sent to the State Government for sanction of post of Machhuwa in pursuance of policy decision as well as for regularization of daily wagers who have been engaged prior to Cut off date. I have heard learned counsel for parties and gone through the record.

11. Admittedly, petitioners have been engaged in the year 1984 and, as such, they are fully covered by the policy decision taken by the State Government vide Government Order dated 8.9.2010.

12. Taking into consideration the length of services of petitioners and the fact that they are fully covered by the policy decision taken by the State Government vide Government Order dated 8.9.2010, this writ petition is disposed of finally

with the direction to the opposite parties to consider the claim of petitioners for regularization of their services and decide the same within three months from the date of receipt of certified copy of this order.