

(2017) 02 AHC CK 0154
In the Allahabad High Court
Case No : Writ A No. 50230 of 2016

Gyanendra Bahadur Singh	Vs	APPELLANT
State of Uttar Pradesh		RESPONDENT

Date of Decision : 07-02-2017

Acts Referred:

Uttar Pradesh Sub-Registrar Services Rules, 1982 — Section 18(4)

Citation : (2017) 121 ALR 185

Hon'ble Judges : Mrs. Sunita Agarwal, J.

Bench : Single Bench

Advocate : Ved Prakash Shukla, Advocate, for the Petitioner; C.S.C, for the Respondent

Final Decision : Disposed Off

Judgement

Mrs. Sunita Agarwal, J.—; Heard Sri Ved Prakash Shukla, learned counsel for the petitioner and learned Standing Counsel for the respondents. By means of the present writ petition, the petitioner is seeking for quashing of the order dated 30.9.2016 passed by respondent no.2, the Inspector General Registration, U.P., Allahabad in reverting the petitioner to the post of Registration Clerk from the post of Incharge Sub-Registrar.

2. The main grounds of challenge to the order impugned are that it casts stigma upon the petitioner as he was held unfit for promotion on the basis of an adverse entry in the service book and further no opportunity of hearing has been provided.

3. The contention is that the promotion on the post of Incharge Sub-Registrar is made pursuant to the rule 18 (4) of the Rules, 1983 which contemplates that such promotion is made for one year or till the regular selection is made, whichever is earlier. The regular recruitment on the post of Sub Registrar has not been made till date. The petitioner has been appointed Incharge Sub-Registrar in the year 2012 and there is no complaint regarding his working on the said post.

There was no occasion to revert him on the post of Registration Clerk on the ground that a minor punishment has been awarded in the year 2007 and that too without granting any opportunity of hearing.

4. The impugned order dated 30.9.2016 further casts stigma upon the petitioner as this would hamper the further prospects of the petitioner for regular promotion. The name of the petitioner has been included in the gradation list prepared for regular promotion to the post of Sub-Registrar for which a departmental promotion committee may be held in the near future.

5. In the counter affidavit, it is stated that the decision has been taken to revert the petitioner pursuant to the Government order dated 18.7.2016 in view of the recommendation of a Committee constituted which has found the petitioner unfit for holding the post of Sub-Registrar.

6. In the supplementary counter affidavit, the decision of the aforesaid Committee dated 6.9.2016 has been brought on record to demonstrate that the entries of the service book for the last five years prior to the date of promotion as Incharge Sub-Registrar were considered and it was found that vide order dated 30.11.2007, punishment of withholding two increments with cumulative effect and an adverse entry has been awarded to the petitioner in the year 2006-07, his integrity was also found doubtful.

7. Having heard learned counsel for the parties and perused the record.

8. The post of the Sub-Registrar in the Stamp Registration department is being filled by direct recruitment as well as through promotion as per Rule 5 of U.P. Sub-Registrar Services Rules, 1982. In the year 2012, a seniority and eligibility list of the Registration clerks working in the Department Headquarters Establishment as well as District Establishment was prepared and exercise for promotion was undertaken by the Public Service Commission. But the employees who were working as Stenographers in the department assailed the select list before this Court in a writ petition wherein an interim order was passed to the effect of staying the promotion on the post of Sub-Registrar on the basis of eligibility list dated 9.7.2012. The writ petition is pending and the interim order is still continuing as it was extended till further orders on 15.1.2014.

9. In view of the said exigency, as per Rule 18(4) of the Rules, 1982, the Registration Clerks were made Incharge Sub-Registrar. It appears that some dispute was raised by the U.P. Registration Clerks Association in a Writ Petition No. 1579 of 2014 wherein an order dated 10.1.2014 was passed giving direction to decide their representation.

10. In compliance thereto, the representation dated 22.1.2014 filed by the U.P. Registration Clerk Association was decided. Pursuant to the order dated 28.2.2014, as per provision of Rule 18(4) of the Rules, 1982, a joint district-wise eligibility list of the Registration clerks working in the department Headquarter Establishment as well as District Establishment was prepared vide order dated

15.7.2014. 71 senior most employees have been posted as Incharge Sub-Registrars for a period of one year or until regular selection takes place, it was further extended for a period of one year on 15.7.2015.

11. During the intervening period, 33 posts of Sub- Registrar have become vacant and as such the departmental authorities sought guidelines from the State Government vide letter dated 14.7.2016. In reply thereto, it was directed by the State Government vide order dated 18.7.2016 that a Committee be constituted to select the employees for promotion to the post of Sub-Registrar keeping in consideration of their seniority subject to suitability.

12. It was further directed in the Government order dated 18.7.2016 that the candidates who are working as Incharge Sub-Registrar, if found unsuitable for the post, be reverted back to their original post of Registration Clerk. Pursuant to the aforesaid direction of the State Government, vide order dated 21.7.2016, a committee was constituted to examine the service records of all the employees including the prospective promotees as also the incumbents working on the post as Incharge Sub-Registrar.

13. The Committee in its meeting held on 6.9.2016 had reviewed the service records of the petitioner for the period of ten years prior to the year of promotion. It was then found that minor punishment has been awarded to the petitioner in the year 2007 after holding a departmental inquiry.

14. The committee, therefore, recommended that the petitioner was not fit for promotion in the year 2012 and as such has no right to continue.

15. No illegality has been found in the procedure adopted by the Committee and there is no dispute regarding entry in the service book of the petitioner.

16. Merely because the petitioner has been made Incharge Sub Registrar in the year 2012 ignoring the entries in his service records and has continued as such till the year 2016 would not confer any right upon him to continue. Moreover, this is an interim arrangement made in view of exigency of work and no right has been accrued with the petitioner which would require any opportunity of hearing being granted to him.

17. So far as the contention of learned counsel for the petitioner that the order impugned would cast a stigma on his future prospects of promotion, it would be suffice to note that nothing adverse has been recorded regarding working of the petitioner on the post of Incharge Sub-Registrar. As far as adverse entry is concerned it has nothing to do with the working of the petitioner on the post of Incharge Sub-Registrar.

18. In the event of regular promotion, the procedure as prescribed under the rules has to be followed and the service record of the petitioner is to be examined. The factum of reversion of the petitioner, therefore, would be of no consequence as it is based upon the existing entries in the service book of the petitioner.

19. As the consideration for the regular promotion would be a fresh exercise, it is, therefore, clarified that the reversion order dated 30.9.2016 under challenge in the present petition would have no bearing in the matter of consideration for regular promotion of the petitioner to the post of Sub-Registrar. An independent exercise in accordance with the rules shall be undertaken without being influenced by any of the observation made herein above as also in the order under challenge in this petition.

20. With the above said observations and directions, the writ petition is disposed of.