
(2014) 01 AHC CK 0157

In the Allahabad High Court

Case No : Special Appeal Defective No. 109 of 2014

Hriday Narayan Ram

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 31-01-2014

Acts Referred:

Citation : (2014) 4 ADJ 780

Hon'ble Judges : Dhananjaya Yashwant Chandrachud, C.J; Dilip Gupta, J

Bench : Division Bench

Advocate : Bheem Singh, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

1. This Special Appeal arises out of a judgment and order dated 19 November 2013 passed by a learned Single Judge of this Court. The writ petition filed by the appellant for quashing the order dated 28 May 2010 passed by the Director, Panchayati Raj by which the representation dated 2 October 2006 filed by the appellant for counting the period of service rendered by him in Gandak Samadesh Kshetriya Vikas Pariyojna for the purpose of pay protection in terms of the Government Order dated 13 January 2005 was rejected. The appellant was initially appointed as a Seench Parvekshak on 11 August 1982 in the pay-scale of Rs. 354-550 in Gandak Samadesh Kshetriya Vikas Pariyojna. He continued to work as Seench Parvekshak upto 10 October 1991. He was then adjusted after retrenchment on the post of Gram Panchayat Adhikari with effect from 11th October 1991 in the pay-scale of Rs. 950-1500. His pay was, however, fixed at Rs. 1090/- which he was drawing at the time of retrenchment. The pay of the appellant was revised to Rs. 1130/- with effect from 11 August 1992 by treating him to be in the selection grade after ten years of continuous service. The pay of the appellant was also fixed at Rs. 1350/- in the first promotional pay-scale with effect from 11 August 1996 after completion of 14 years of service. The prayer of the appellant for grant of selection grade with effect from 11 October 1999 after completion of eight years of service and promotional pay-scale with effect from

11 October 2005 after completion of 14 years of service was rejected by the order dated 28 May 2010. This order was assailed by the appellant in Writ Petition No. 19497 of 2012. It is against the dismissal of the said petition that this Special Appeal has been filed.

2. Learned counsel appearing on behalf of the appellant submitted that the appellant worked on the post of Seench Parvekshak in the Gandak Samadesh Kshetriya Vikas Pariyojna and after retrenchment of his services he was adjusted as Gram Panchayat Adhikari without any break and, therefore, there is no reason to discard the services of the appellant on the post of Seench Parvekshak for the purpose of giving him the benefits of selection grade and promotional grade. Learned counsel for the appellant submitted that in similar circumstances, benefit was extended to one Rajendra Prasad Gupta who was also, after retrenchment, adjusted on the post of Gram Vikas Adhikari on 29 August 1999 but for arbitrary reasons, such benefit had been denied to the appellant.

3. Learned Standing Counsel appearing for the respondents, however, submitted that as the post of Seench Parvekshak, on which the appellant was appointed, was a non pensionable post, period of service rendered by him on the post of Seench Parvekshak cannot be counted for the purpose of providing the selection grade and promotional pay-scale. Learned Standing Counsel also submitted that the appellant is not justified in claiming parity with Rajendra Prasad Gupta as he was a retrenched employee of Regional Development Corporation and the Government Order dated 11 November 1993 was issued in that regard for such employees, but a similar order had not been issued for retrenched employees of Gandak Samadesh Kshetriya Vikas Pariyojna. From a perusal of the order dated 28 May 2010 that was assailed by the appellant in the writ petition, it is clear that the appellant continued to work as Seench Parvekshak upto 10 October 1991 and after retrenchment, without any break, worked as a Gram Panchayat Adhikari with effect from 11 October 1991. His pay was fixed at Rs. 1090/- after giving him the benefit of pay protection. The pay of the appellant was then fixed at Rs. 1130/- with effect from 11 August 1992 on completion of 10 years of service and at Rs. 1350/- with effect from 11 August 1996 on completion of 14 years of service. Thus, the period of service rendered by him as a Seench Parvekshak was counted. The claim of the appellant for grant of selection grade with effect from 11 October 1999 and promotional pay-scale with effect from 11 October 2005 on completion of 8 years and 14 years of service respectively has, however, been rejected for the reason that there was no condition regarding pay protection in the order of appointment of the appellant as Gram Panchayat Adhikari. It is seen that the pay protection was infact provided to the appellant. The case of the appellant was also required to be considered in the light of the order granting such benefit to another employee, may be of the Regional Development Corporation, whose services were also adjusted on the post of Gram Vikas Adhikari. These factors have not been taken into consideration by the Director, Panchayat Raj while passing the order dated 28 May 2010 and nor have they been considered by the learned Judge in the impugned judgment and

order dated 19 November 2013.

We, accordingly, set aside the order dated 28 May 2010 and the impugned judgment and order dated 19 November 2013. The Director, Panchayati Raj, U.P. shall now consider the claim of the appellant afresh expeditiously and preferably within a period of two months from the date of service of this order.

The Special Appeal and the Writ Petition stand disposed of with the aforesaid observations.

There shall be no order as to costs.