
(2011) 04 AHC CK 0358
In the Allahabad High Court
Case No : Service Single No. 2096 of 2011

Kamlesh Shahi	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 19-04-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 04 AHC CK 0358

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Anil Kumar, J.—Heard Sri Vinay Mishra holding brief of Smt. Nalini Jain, learned Counsel for Petitioner and learned Standing Counsel.

2. With the consent of parties" counsel, writ petition is finally disposed of at the admission stage.

3. By means of present writ petition, Petitioner has sought the following main prayers:

(I) issue a writ, order or direction in the nature of mandamus commanding the opposite parties to consider the case of Petitioner for national promotion and for payment of promotional pay scale from the date juniors were given the same i.e. in subordinate agriculture service group-II(class-III) from 1980.

(II) issue a writ, order or direction in the nature of mandamus commanding the opposite parties to pay him all the difference in salary accruing as a result of his national promotion and revise his pension accordingly, in the interest of justice.

4. Learned Counsel for Petitioner submits that in the identical circumstances, a Writ Petition No. 3444 (SS) of 2010 (Radhey Shyam Naik and Ors. v. State of U.P. and Ors.) filed, disposed of on 26.05.2010, the relevant portion of the same is as under:

The Petitioners have approached this Court under Article 226 of the Constitution of India with the grievance that they are entitled for promotional pay-scale from the date their juniors were given in Subordinate Agriculture Services Group-II. It is admitted at bar that identical controversy has been settled at rest vide judgment and order dated 19.05.2006, passed in Writ Petition No. 6368 (S/S) of 1997. The operative portion of the judgment and order dated 19.05.1997 is reproduced as under:

In the result, the writ petition succeeds and is allowed. The order dated 03.03.1998 are hereby quashed and the Respondents are directed to consider the claim of the Petitioners to the post of S.A.S. Group-II w.e.f. The date the juniors to the Petitioners have been promoted. Since the Petitioners have retired from service and they are losers of pensionary benefits on account of non-consideration of their promotion, their cases for promotion be considered with all consequential benefits within a period of two months, from the date a certified copy of this order is produced before the authority concerned. No order as to costs.

In view of the above, it is not necessary to deal with the entire controversy at length again.

The writ petition is disposed of finally in terms of the judgment and order dated 19.05.2006, passed in Writ Petition No. 6368 (S/S) of 1997. The Petitioners shall also be entitled for service benefits provided by this Court while deciding the controversy vide judgment and order dated 19.05.2006 (supra).

5. Accordingly, a request has been made by learned Counsel for Petitioner that present writ petition may also be disposed of in terms of order dated 26.05.2010 passed in Writ Petition No. 3444 (SS) of 2010 (Radhey Shyam Naik and Ors. v. State of U.P. and others).

6. Learned Standing Counsel appearing on behalf of Respondents has no objection to above said prayer.

7. For the foregoing reasons, writ petition is disposed of finally with the direction that Petitioner is permitted to move a fresh representation within a period of two weeks from today annexing all relevant documents and material in support of his case as well as self addressed stamped envelop before Respondent No. 2 (Director, Agriculture, Uttar Pradesh, Krishi Bhawan, Lucknow) and the said Authority after receiving the representation of Petitioner, dispose of the same keeping in view the order dated 26.05.2010 passed in Writ Petition No. 3444 (SS) of 2010 (Radhey Shyam Naik and Ors. State of U.P. and others), within further period of four weeks with reasoned and speaking order and communicate the same to Petitioner.