
(2009) 04 AHC CK 0545
In the Allahabad High Court

Kunt Pal Singh and others

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 30-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0545

Hon'ble Judges : Sudhir Agarwal, J

Final Decision : Disposed Of

Judgement

Sudhir Agarwal, J.—Heard Sri B.N. Singh for the petitioners and learned Standing Counsel for the respondents.

2. The petitioners who were appointed as Tubewell operators and were regularised in accordance with the provisions of Regularisation of Part Time Tube well Operators on the post of Tubewell Operators Regularisation Rules, 1996 (hereinafter referred to as "1996 Rules") are claiming that they should be given seniority and all other benefits from the date of their initial appointment. Reliance is placed by Sri B.N. Singh, learned counsel for the petitioners on a judgment dated 23.9.2008 of a learned Single Judge of this Court in writ petition no 5971(S/S) of 2008, Raj Kumar Pandey Vs. State of U.P. and others which reads as under:

"Heard learned counsel for the petitioners and learned Standing Counsel.

The petitioners claim that they are entitled for getting benefit from the date of their initial appointment and petitioners in this regard relied on the judgment rendered by this Court in the case of S.L. Prasad and others Vs. State of U.P. and others, and against the said judgment, SLP has also been preferred before Hon"ble Apex Court and the same has been dismissed by the Hon"ble Apex Court. Copy of the said judgments have been appended along with the writ petition.

Petitioners for redressal of their grievance have already represented the matter before their respective Executive Engineer under whom they are performing and

discharging duties.

In these circumstances, and in this background, liberty is given to each one of the petitioners to make fresh representation within four weeks from today along with the certified copy of this order before the concerned Executive Engineer under whom they are performing and discharging duties who shall proceed to consider the claim of the petitioners preferably within three months from the date of receipt of the said representation. Whatever decision is taken on the same, same be communicated to petitioners.

With the above direction, present writ petition is disposed of finally."

3. However, learned Standing Counsel submitted that the aforesaid judgment nowhere says about seniority. Moreover, the question of seniority will be covered by Rule 6(1) of 1996 Rules reads as under:

"6(1) Is Niyamawali Ke Adhin Niyukti Koi Vyakti Is Niyamawali Ke Anusar Chayan Ke Paschat Keval Niyukti Ke Adesh Ke Dinank Se Jyesthata Ka Haqdar Hoga Aur Sabhi Mamlo Me Is Niyamawali Ke Adhin Aise Vyakti Ki Niyukti Ke Poorva, Sangat Sewa Niyam Ke Anusar Nalkoop Chalak Ke Pad Par Niyukt Vyaktiyon Ko Niche Rakha Jayega."

4. He, therefore, submitted that so far as seniority is concerned, since Rule 6(1) has not been challenged by the petitioners and is still operative, the the issue of seniority will be governed by that Rule and it cannot be given from the initial date of appointment. In my view, the submission has substance. It is not in dispute that validity of 6 of 1996 Rules has not been challenged. Rule 6 clearly provides that the seniority shall reckon from the date of order of appointment under 1996 Rules after selection in accordance with the procedure prescribed thereunder . Therefore, so far as seniority is concerned, it cannot be said that the same can be allowed to be reckoned in any other manner. In my view, the petitioners' seniority would be governed by Rule 6 of 1996 Rules.

5. So far as other benefits are concerned, learned Standing Counsel could not show any reason to take a different view than what has been taken in Raj Kumar (Supra).

6. In the circumstances, this writ petition is disposed of with the following directions:

(i) Seniority of the petitioners shall be determined in accordance with Rule 6 of 1996 Rules.

(ii) For all other service benefits the petitioners shall be entitled to the same in the terms it has been allowed by this Court vide judgment rendered in S.L. Prasad and others Vs. State of U.P. and others referred to in the order dated 23.9.2008 in 5971(S/S) of 2008, Raj Kumar Pandey Vs. State of U.P. and others, and the same would be extended to the petitioners by appropriate authority by passing appropriate order on the representation of the petitioners which the

petitioners would make within three weeks from today.

There shall be no order as to costs.