
(2008) 07 AHC CK 0011
In the Allahabad High Court
Case No : Writ Petition No. 7276 of 2003

Mohd. Ibrahim

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 28-07-2008

Acts Referred:

Citation : (2008) 119 FLR 300

Hon'ble Judges : Devi Prasad Singh, J

Bench : Single Bench

Advocate : Ramesh Pandey, for the Appellant;

Final Decision : Allowed

Judgement

Devi Prasad Singh, J.—Heard the Petitioner's Counsel and learned Standing Counsel.

The Petitioner is a retrenched employee of U.P. Tyres and Tubes Limited. His retrenchment was done on July 28, 1994. According to the Petitioner's Counsel, the State Government vide Government Order dated 1.9.1995 took a decision that all retrenched employees shall be absorbed in other departments on equivalent post. However, when the Petitioner was not absorbed, he has filed the present writ petition.

2. The solitary ground raised by the learned Standing Counsel is that in view of the Government Order dated 8.4.2003, the provisions for absorption of retrenched employee have been rescinded and as such, the Petitioner is not entitled for any benefit according to order dated 8.4.2003.

3. I have given my anxious consideration to the arguments advanced by the parties' Counsel.

4. It has not been disputed that the Petitioner is the retrenched employee of the year 1994 and originally, the Petitioner's case was covered by the Government Order dated 1.9.1995. The subsequent Government Order dated 8.4.2003 seems

to be prospective in nature. The Petitioner's Counsel also relied upon statutory Rule of 1991. However, this Court's attention has not been invited to any material on record which may indicate that the order dated 8.4.2003 has been given retrospective operation. It is settled law that every Government Order, rules or regulations have prospective operation unless specifically mentioned of its being given retrospective effect. Accordingly, in the present case, it appears that the Petitioner is entitled for absorption in any department Keeping in view the Government Order dated 1.9.1995 and other statutory rules or regulations covering the controversy. The Government Order dated 8.4.2003 seems to be not applied in the facts and circumstances of the present case.

5. Accordingly, the writ petition is allowed. A writ in the nature of mandamus is issued commanding the opposite parties to consider the Petitioner's case for absorption keeping in view the Government Order dated 1.9.1995 and any other rules or regulation operating at the relevant time. Since one post has been kept reserved vide interim order dated 19.11.2003, passed by this Court, the Petitioner may be very well adjusted against the said vacancy. Let necessary exercise be done within three months from the date of receipt of a certified copy of this order.

6. Subject to above, the writ petition is allowed.

No order as to costs.