

**(2011) 12 AHC CK 0095**  
**In the Allahabad High Court**  
**Case No : Service Single No. 3017 of 2009**

Om Prakash

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision :** 09-12-2011

**Acts Referred:**

**Citation :** (2011) 12 AHC CK 0095

**Hon'ble Judges :** Anil Kumar, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Hon"ble Anil Kumar, J.—Heard Sri Hemendra Pratap, Advocate, Sri G.K. Dwivedi, Advocate learned counsel for petitioner and Sri S.R. Shukla, learned State Counsel.

2. Learned counsel for respondent submits that controversy involved in the present case is squarely covered by the judgment of this Court dated 19.10.2011 passed in Writ Petition 9656 (SS) of 2006, which on reproduction reads as under:

It is admitted at bar that the controversy in question has been set at rest by judgment and order dated 11.10.2011, passed in Writ Petition No.7641 of 2003(S/S). Accordingly, with the consent of the parties" counsel, I proceed to dispose of the writ petition finally at admission stage.

According to the petitioner's counsel, the petitioner has attained the age of superannuation while working in the workshop of Irrigation Department. According to him, all those persons working in the Irrigation Department are entitled to continue up to the age of 60 years but a notice was served on the petitioners with regard to superannuation at the age of 58 years. The submission is that merely because the petitioner has been discharging duty in the workshop does not mean that he shall not be entitled for service benefits at par with other employees. In spite of categorical pleading on record, nothing has been brought on record to rebut the argument advanced by the petitioners" counsel that the

employees working in the workshop are part and partial of the irrigation department; rather in paragraph 5 of the counter affidavit, it has been stated that the petitioners belong to irrigation department. Once the petitioner is the employees of the State Government and also he has been admitted as employee of the Irrigation Department, only because they are discharging duty in the workshop shall not disentitle him to avail the service benefit at par with other employees of the irrigation department. Attention of this Court has not been invited to any rules, regulations or statutory provisions to make out a case that the service condition of the workshop employees are governed by different set of rules or regulations. In view of above, there appears to be no justification on the part of the respondents to treat the petitioner differently than other employees of the irrigation department. The impugned notice suffers from vice of arbitrariness and is discriminatory in nature.

Accordingly, the writ petition is allowed. A writ of certiorari is issued quashing the impugned notice dated 27.10.2006 (Annexure-1) with consequential benefits.

3. Learned counsel for petitioner requests that similar benefit may be given to the present petitioner also.

4. Learned State counsel has no objection to the abovesaid prayer.

5. For the foregoing reasons, the writ petition is allowed in terms of the order dated 19.10.2011 passed in Writ Petition 9656 (SS) of 2006. Thus, impugned order dated 05.05.2009 (Annexure No. 1) passed by O.P. No. 5 is set aside.