
(2011) 02 AHC CK 0309
In the Allahabad High Court
Case No : Writ A. No. 7517 of 2011

Payarey Mirza

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 09-02-2011

Acts Referred:

Citation : (2011) 02 AHC CK 0309

Hon'ble Judges : Sunil Ambwani, J; Jayashree Tiwari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. We have heard learned Counsel for the Petitioner. Learned Standing Counsel appears for the State Respondents.
2. The Petitioner was posted as Naib Tehsildar in Tehsil Sadar, District Rampur, and retired on 31.7.1992. He challenged an order of punishment dated 20.11.1991 passed prior to his retirement in Claim Petition No. 2333 of 1994. Without discussing the allegations and the charges made against the Petitioner, the claim petition has been allowed on 24.8.2009 only on the ground that two witnesses were not permitted to be cross-examined by the Petitioner. The Tribunal has, after 19 years of the order of punishment, set aside the order with directions to revise the retiral benefits payable to the Petitioner.
3. The Petitioner's representation for revising the retiral benefit is under consideration. The Board of Revenue has passed an order on 20.11.2010 directing the District Magistrate, Rampur to revise the pensionary benefit.
4. By this writ petition the Petitioner has prayed for giving him a grade of Tehsildar from 1982 to 1992 and pay arrears of salary and allowances and others dues and to decide his representations dated 24.6.2010 and 29.12.2010.
5. The Petitioner's earlier representation, while he was in service in pursuance to the orders passed by this Court in Writ Petition No. 2153 of 1990, was disposed

of on 1.2.2005 rejecting his prayers for double adhoc promotions from 1989-90 and 1990-91. The Petitioner did not challenge the order.

6. It is alleged that the Petitioner has acquired a fresh cause of action to challenge the order as the punishment awarded to him has been set aside on 24.8.2009.

7. The Petitioner's representations in pursuance of directions of this Court in Writ Petition No. 2153 of 1990 was rejected on 1.2.2005 on the grounds; firstly that by an interim order dated 20.6.1989 in Writ Petition No. 1923 of 1989 the High Court had stayed the double adhoc promotions on account of which the Departmental Promotion Committee did not make any recommendations. The interim order was vacated on 26.5.1990 but that the Board of Revenue decided that since the adhoc promotions have far exceeded the quota from the Amin's cadre, the double promotions given to adhoc Naib Tehsildars should not be made to such an extent that there should be a balance amongst the promotees from the various feeding cadres including Supervisor Qanoongo. Secondly the Additional Land Management Commissioner found that in the year 1990-91 the Petitioner being a junior person in the cadre did not fall within the zone of consideration and that according to the order of the High Court dated 6.2.1990 the promotion could not be given as by that time a disciplinary enquiry was initiated on serious charges against the Petitioner. Thirdly, the District Magistrate, Rampur did not certify the integrity of the Petitioner in view of the disciplinary enquiry in the years 1989-90 and 1990-91.

8. We do not agree with the submission of learned Counsel for the Petitioner, that the pending disciplinary enquiry was the only ground on which the Petitioner was denied promotion as Tehsildar and thus the contention that after the judgment of the Tribunal he should be considered for promotions on the post of Tehsildar when it was due to him.

9. We also find that the Petitioner was considered for promotion two decades" ago and that it will not be appropriate to give any directions to Respondents to convene Departmental Promotion Committee to consider the Petitioner for promotion. The promotion to the post of Tehsildar was to be considered from various feeding cadres, after considering the respective service records. It will not be feasible to collect the details after such a long time.

The writ petition is dismissed.