

(2010) 08 AHC CK 0370
In the Allahabad High Court

P.L. Verma and Others

APPELLANT

Vs

U.P. State Public Services Tribunal and Others

RESPONDENT

Date of Decision : 03-08-2010

Acts Referred:

Citation : (2010) 08 AHC CK 0370

Hon'ble Judges : Sunil Ambwani, J;Kashi Nath Pandey, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Sunil Ambwani, J.—Heard Sri Ashok Khare, learned Senior Advocate, assisted by Sri A.K. Gupta for the petitioner. Learned standing counsel appears for respondents.

2. All the petitioners were serving as "Vaidya" in the Nagar Mahapalika, Varanasi.

3. By this writ petition, they have challenged the judgment of the U.P. State Public Services Tribunal, Lucknow against the order of the Director, Local Bodies, U.P., Lucknow disapproving the bifurcation of six posts in the ratio of 1 : 2 in pursuance to the new pay scales as recommended by the Pay Commission 1971-72.

4. The Administrative Officer of the Nagar Mahapalika, Varanasi by his order dated 24.4.1979 accepted the recommendation of the Pay Commission and consequently bifurcated the post of Vaidya in the ratio of 1 : 2 i.e. two posts of Vaidya in Category-I and four posts of Vaidya in Category-II w.e.f. 1.7.92. The order was passed in anticipation of the sanction of the State Government.

5. The State Government took an objection that the post of Vaidya Grade - II comes under the Centralized Service Cadre and that promotions could be given only in accordance with the state-wise seniority, and that the posts of Vaidya Grade - II were within the purview of the Public Service Commission. The Nagar Mahapalika was not authorized to grant promotions. In the special

circumstances, the State Government alone could have promoted them on ad hoc or temporary basis under Rule 31 of the Centralized Service Rules 1976. The Tribunal dismissed the claim petition.

6. Sri Ashok Khare, learned Counsel for the petitioners would submit that the petitioner No. 1 has since been deleted from the array of parties and petitioner Nos. 2 to 4 have since retired. The State Government has subsequently in the matter of Sri Kamlesh Kumar Pathak in pursuance to the directions issued by this Court in writ petition No. 19031 of 1991 on 25.2.2008 sanctioned pay scale of Rs. 850-1720 w.e.f. 15.7.1991 to Sri Kamlesh Kumar Pathak and has allowed all other consequential benefits.

7. It is submitted by Sri Ashok Khare that in pursuance to the recommendation of the Pay Commission, six posts of Vaidya were required to be bifurcated into two categories. The bifurcation among the cadre for allowing the pay scale was consequential to the revision of pay by the Pay Commission. It has nothing to do with the promotion to be made or regularization on Centralized Services. The State Government instead of giving approval to the recommendation for the bifurcation, has treated the bifurcation as promotion.

8. In view of the subsequent development and the fact that the promotions were given to the petitioner, we are of the opinion that the State Government fell into error in treating the bifurcation of the post as promotion denying them the benefits of the recommendation of the Pay Commission.

9. The writ petition is allowed. The judgment of the Tribunal is set aside. The petitioner Nos. 2 to 4 will be given arrears worked out on the basis of recommendation of the First Pay Commission w.e.f. 1.8.1972 and all consequential benefits including consequential promotion from the date when the juniors were promoted to Grade - I, revision of pay scale, retiral and pension benefits. The order will be carried out within three months.