

(2010) 10 AHC CK 0272
In the Allahabad High Court
Case No : Service Single No. 7367 of 2010

Rakesh Prasad and Others

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 26-10-2010

Acts Referred:

Citation : (2010) 10 AHC CK 0272

Hon'ble Judges : Devendra Kumar Arora, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Devendra Kumar Arora, J.—Heard learned Counsel for parties and perused the record.

2. By means of this writ petition, the petitioners have prayed for a writ in the nature of mandamus commanding the opposite parties to pay them regular pay-scale w.e.f. 31.3.1989 on which date the said benefits have been given to the petitioners of W.P. No. 3558 (SS) of 1992, Suresh Chandra Tiwari and Ors. and petitioners of W.P. No. 42196 of 1992 from the date of their initial appointments as Tubewell Operators, with all consequential benefits of service together with arrears of pay.

3. Submission of learned Counsel for petitioners is that the petitioners were initially appointed on the post of Part-time Tubewell Operators in their respective divisions of the Irrigation Department between 01.01.1981 to 16.10.1990. Subsequently, vide notification dated 20.2.1992 their nomenclature was changed as Tubewell Assistant and an honorarium of 550/-per month was fixed. The said notification was challenged by filing bunch of writ petitions leading with W.P. No. 3558 (SS) of 1992 Suresh Chandra Tewari and Ors. v. State of U. P. and Ors. which were allowed vide judgment & order dated 18.5.1994 (Annexure No. 2) and the Notification dated 20.2.1992 was quashed. The opposite parties were directed to pay all the petitioners the same emoluments i.e. in the same scale of

pay in which other regularly appointed tubewell operators were being paid. It is also pointed out by learned Counsel for the petitioners that the said judgment & order dated 18.5.1994 was challenged by the respondents before the Hon''ble Supreme Court by way of filing SLP But the same was dismissed vide judgment & order dated 22.3.1995. Thereafter review of the judgment & order dated 22.3.1995 was also filed before the apex court but that too was rejected on 18.10.1995.

4. It is further submitted that even after dismissal of review petition by the Hon''ble Supreme Court the respondents did not make compliance of the order and, therefore, Contempt petitions No. 2134 (C) of 1995 Avadhesh Kumar Singh and Ors. v. Smt. Sunita Kandpal and Ors., 2136 (C) of 1995 Surendra Pal Singh and Ors. v. Smt. Sunita Kandpal and Ors. and 3465 (C) of 1995 Brijendra Pal Singh v. Smt. Sunita Kandpal and Ors. were filed. In consequence of filing of contempt petitions, the respondents thereafter passed order dated 27.10.1995 providing the same emoluments to the said petitioners as were being paid to other regular tubewell operators.

5. Learned Counsel for petitioners further pointed out that another W.P. No. 7489 (SS) of 2000 (Avdhesh Kumar Singh v. State of U. P. and Ors. was also filed for grant of regular pay-scale w.e.f. 31.3.1989 which was disposed of finally in terms of the judgment & order dated 18.5.1994 vide judgment & order dated 21.12.2000. Against the said judgment & order dated 21.12.2000 the respondents filed Special Appeal which was dismissed. The respondents also filed Review Petition No. 120 of 2010 which too was dismissed vide judgment & order dated 20.7.2010. Thus, the judgment & order dated 21.12.2000 passed in writ petition has become final.

6. Submission of learned Counsel for petitioners is that controversy has already been settled by this Court in W.P. No. 3558 of 1992 Suresh Chandra Tewari and Ors. v. State of U. P. and Ors.

7. Learned Standing Counsel admits that the present writ petition is covered by the decision of Suresh Chandra Tiwari (supra).

8. In view of the above, this writ petition is disposed of finally in terms of the judgment & order passed in W.P. No. 3558 (SS) of 1992 Suresh Chandra Tiwari and Ors. v. State of U. P. and Ors. with the further directions to the opposite parties to grant benefit of the said judgment to the present petitioners.