
(2011) 12 AHC CK 0361
In the Allahabad High Court
Case No : Service Single No. 9138 of 2011

Vijay Shanker and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 20-12-2011

Acts Referred:

Citation : (2011) 12 AHC CK 0361

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Judgement

Hon'ble Anil Kumar, J.—Heard Sri Y.K. Misra, learned counsel for the petitioners, learned State Counsel for opposite parties and perused the record.

2. By means of present writ petition, the petitioners have prayed the following main relief:

to issue a writ, order or direction in the nature of mandamus commanding the respondent to pay arrears of salaries to the petitioners with effect from 31.3.1989 in the regular pay scale.

3. Learned counsel for the petitioners submit that the controversy which involved in the present writ petition, was also involved in Writ Petition no. 6506(S/S) of 2011 (Ram Kishun and others Vs. The State of U.P. and others), the same was disposed of by order dated 16.9.2011. The said order on reproduction reads as under:

By means of the present writ petition, the petitioners pray for a writ in the nature of mandamus commanding the opposite parties to pay the arrears of salary to them w.e.f. 31.3.1989, since when the same is being paid to the other similarly situated persons, namely S/Sri Suresh Chandra Tewari and others.

Submission of learned counsel for the petitioners is that the petitioners were initially appointed as Part-time Tubewell Operators during the year 1987 and 1991 in district Basti on consolidated salary of Rs, 299/- per month. Later on, as

per Notification dated 20.2.1992 they were re-designated as Tubewell Assistants and their salary was also enhanced to Rs. 550/- per month. In the meantime, similarly situated persons filed a claim petition before the learned Labour Court for grant of regular pay scale at par with the regular tubewell operators which was allowed in the year 1989 and opposite parties were directed to pay salary to the claim petitioners at par with those regular tubewell operators. The award of the Labour Court was challenged before this Court by the State Government. Certain similarly situated persons, namely, Suresh Chandra Tewari and others filed Writ Petition no. 3558 (SS) of 1992 challenging the notification dated 20.2.1992 and also praying for payment of salary in regular pay-scale as admissible to regular appointed Tubewell Operators. Both the writ petitions were clubbed and decided together by this Court vide judgment & order dated 18.5.1994 thereby upholding the award of Labour Court and dismissing the writ petition of State Government as well as allowing the writ petition of Suresh Chandra Tewari and others with a direction for the respondents to pay regular pay-scale to the petitioners. Against the said judgment, the State of U.P. preferred Special Leave to Appeal which was dismissed. Accordingly, the petitioners of the writ petitions were paid regular pay-scale.

Grievance of the petitioners is that all the controversy has been settled by this Court in Writ Petition no. 3558 (SS) of 1992, Suresh Chandra Tewari & others vs. State of U.P. & others, 7489 (SS) of 2000 (Awadhesh Kumar & others vs. State of U.P., & others, and 7045 (SS) of 2010, Ghanshyam Misra & others vs. State of U.P. & others but they have not been paid their regular salaries despite the fact that the petitioners are similarly situated persons but they have been deprived of their salaries w.e.f. 31.3.1989. It is also submitted by learned counsel for the petitioners that the petitioners are being paid regular salary w. e. f. 18th May, 1994.

On being made a query, learned Standing Counsel submitted that present writ petition is fully covered with judgment & order dated 05.10.2010, passed in Writ Petition no. 7045 (SS) of 2010, Ghanshyam Misra and others vs. State of U.P. & others.

I have considered the submissions made by learned counsel for parties and perused the pleadings of the writ petition.

As controversy involved in this writ petition has already been settled by this Court in Writ Petitions no. 3558 (SS) of 1992, Suresh Chandra Tewari & others vs. State of U.P. & others, 7489 (SS) of 2000, Awadhesh Kumar & others vs. State of U.P., & others and 7045 (SS) of 2010, Ghanshyam Misra & others vs. State of U.P. & others (Supra), the petitioners are also entitled to get benefit the judgment & order passed in the said writ petitions.

Present writ petition is, therefore, disposed of finally in terms of the judgment & order passed in Writ Petition no. 3558 (SS) of 1992, Suresh Chandra Tewari & others with a further direction to grant benefit of the said decision to the

petitioners also

4. Learned counsel for the petitioners submits that the same benefit may be given to the present petitioners also as granted by this Court in Writ Petition no. 3558(S/S) of 1992(Suresh Chandra Tiwari and others Vs. State of U.P. and others).

5. Learned Standing Counsel has no objection to the above said prayer.

6. For the forgoing reasons, the writ petition is disposed of in terms of the judgment and order passed in Writ Petition no. 3558(S/S) of 1992(Suresh Chandra Tiwari and others Vs. State of U.P. and others) and the petitioners are also entitled for the same benefit granted by this Court in the aforesaid writ petition.