

Dargahi Singh vs State Of U.P. Thru. Addl. Chief Secy. ... on 4 February, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:7033

Court No. - 18

Case :- WRIT - A No. - 12140 of 2024

Petitioner :- Dargahi Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Revenue Deptt. Lko. And 8 Others

Counsel for Petitioner :- Pradeep Singh Somvanshi

Counsel for Respondent :- C.S.C.

Hon'ble Manish Kumar Nigam,J.

1. This petition has been filed by the petitioner for the following reliefs:-

"i) Issue a writ of order or direction in the nature of certiorari to quash the impugned order dated 17.10.2024 passed by District Magistrate, Amethi by which the District Magistrate, Amethi has reduced the pay scale of the petitioner and also pay leave encashment a sum of Rs.7,59,200/- instead of Rs.9,37,200/- and also denied to give the service benefit to the petitioner from his initial date of appointment i.e. 05.06.1986 has given several similarly situated candidates, in the interest of justice, in favour of the petitioner. (contained as Annexure No.1 to this writ petition.

ii) Issue a writ of order or direction in the nature of Mandamus commanding to opposite party no.6 i.e. District Magistrate to pay difference of leave encashment a sum of Rs.1,78,000/- which has been deducted after reduction of pay scale and also

pay arrear of salary, arrear of pension and other retiral dues on the basis of initial date of appointment i.e. 05.06.1986, in favour of the petitioner."

2. The petitioner had earlier filed a writ petition being Writ- A No.7881 of 2024 in which following order was passed on 27.09.2024 which reads as under:

"1. Heard.

2. This Court has passed order dated 13.9.2024, which reads as under :

"1. Heard Shri P.S. Somvanshi, learned counsel for the petitioner and Shri Sandeep Sharma, learned Standing Counsel for the State-respondents.

2. By means of this petition, the petitioner has prayed following main relief(s):-

" i) Issue a writ of order or direction in the nature of certiorari to quash the impugned order dated passed by District Magistrate 23.07.2024 Amethi by which the District Magistrate Amethi has reduced the pay scale of the petitioner and also pay leave encashment a sum of Rs 7,15,400/- instead of 9,37,200/- and also denied to give the service benefit to the petitioner from his initial date of appointment i.e. 05.06.1986 has given several similarly situated candidates., in the interest of justice, in favour of the Petitioners. (contained as Annexure No. 1) to this writ petition.

ii) Issue a writ of order or direction in the nature of Mandamus commanding to opposite party no. 6 i.e. District Magistrate to pay difference of leave encashment a sum of Rs 2,21,800/- which has been deduct after reduction of pay scale and also pay arrear of salary, arrear of pension and other retiral dues on the basis of initial date of appointment i.e. 05.06.1986 , in favour of the petitioner. "

3. Attention has been drawn towards the para nos. 10 and 11 of the impugned order dated 23.7.2024 passed by the District Magistrate, Amethi whereby the grounds which have been taken by the High Court in the order dated 9.8.2000 have been indicated and in para no. 11, it has been specifically indicated that the order of the High Court dated 9.8.2000 is erroneous.

4. Further attention has been drawn towards annexure-14 which is a judgement and order dated 29.8.2014 passed by the Division Bench of this Court in Special Appeal No. 83 of 2001 (State of U.P. vs. Kanhaiya Lal and others) dismissing the appeal of the State wherein the order dated 9.8.2000 was challenged. In the aforesaid Special Appeal, the State had filed a review application seeking review of the judgement and order dated 29.8.2014 but such review application has been rejected vide order dated 5.5.2023 (annexure-15). In the order dated 5.5.2023 passed in the above review application, the fact has been indicated by the Division Bench that the Special Leave to Petition bearing No. 5908 of 2015 has already been dismissed by the Apex Court on 10.4.2015,

5. Therefore, it is clear that the order of the High Court dated 9.8.2000 had attained finality on 5.5.2023, more particularly, before passing the impugned order dated 23.7.2024 and in that situation, the observation of the District Magistrate, Amethi to the effect that the order dated 9.8.2000 of the High Court is erroneous, is prima facie a contemptuous observation.

6. Therefore, the District Magistrate, Amethi is directed to file a personal affidavit by the next date of listing and shall appear in person on the next date to explain the aforesaid observation being given in the impugned order dated 23.7.2024.

7. An appropriate order may be passed on the next date after considering the personal affidavit of the District Magistrate, Amethi.

8. List this case on 27.09.2024 as fresh.

9. Learned Standing Counsel shall intimate this order to the District Magistrate, Amethi telephonically, e-mode or any other speedier options available within three working days for its strict compliance."

3. Today, Ms. Nisha Anant, District Magistrate, Amethi is present in person along with her personal affidavit, same is taken on record.

4. In the aforesaid personal affidavit the authority has tendered unconditional apology by submitting that it was not her intention to make any observation undermining the Majesty of the Court or to flout any direction being issued by the constitutional Court but due to inadvertence the aforesaid observation has been made.

5. She has submitted that she will revisit the order and pass fresh order, therefore, her apology may be accepted.

6. Considering the personal affidavit and submission of District Magistrate, Amethi, her apology is accepted and no order would be passed against her which may affect her in future, having expectation that a fresh order strictly in accordance with law shall be passed in conformity with the orders being passed by the Apex Court and this Court.

7. List this case in the week commencing 21.10.2024.

8. By the next date of listing a supplementary counter affidavit shall be filed by the opposite parties enclosing therewith the order, if any, passed in compliance of the aforesaid order.

9. The District Magistrate, who is present in person need not appear again."

3. By the said order, this Court directed the respondents to pass a fresh order in conformity with the orders being passed by the Apex Court and this Court and it was further directed that the order so passed shall be placed before the court through the supplementary counter affidavit. In compliance

of the order dated 27.09.2024, an order has been passed on 17.10.2024.

4. Learned Standing Counsel has submitted that the said order has also been placed before the Court in Writ - A No.7881 of 2024. Now the order dated 17.10.2024 which has been passed in compliance of orders passed in Writ - A No.7881 of 2024, is challenged in the present writ petition. Since the earlier petition is pending and by earlier order, this Court has directed that the order be produced before the Court in Writ - A No.78781 of 2024. The proper course for the petitioner was to amend the pleading of the Writ - A No.7881 of 2024 and challenge the order which has been passed now and not by means of the present writ petition since the Court has taken cognizance of the matter in earlier writ petition.

5. In view of this, the writ petition is disposed of with liberty to the petitioner to challenge the order in pending Writ - A No.7881 of 2024.

[Manish Kumar Nigam,J.] Order Date :- 4.2.2025 KR