

Ram Raj And 3 Others vs State Of U.P. Thru. Secy./Prin. Secy. ... on 1 April, 2025

Author: Rajesh Singh Chauhan

Bench: Rajesh Singh Chauhan

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:17909

Court No. - 3

Case :- WRIT - A No. - 3420 of 2025

Petitioner :- Ram Raj And 3 Others

Respondent :- State Of U.P. Thru. Secy./Prin. Secy. Deptt. Of Agriculture Education/Rese

Counsel for Petitioner :- Kripa Shankar Shukla,Alok Kumar Mishra

Counsel for Respondent :- C.S.C.,Prashant Kumar Singh

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Kripa Shankar Shukla, learned counsel for the petitioners, learned Standing Counsel for the State-opposite party no.1 and Sri Satyanshu Ojha, Advocate who has filed Vakalatnama on behalf of opposite parties no.2 & 3 same is taken on record.

2. By means of this petition, the petitioners have prayed following main reliefs:-

"i) Issue a writ, order or direction in the nature of Mandamus commanding the opposite parties to pay the current minimum of regular pay scale for class-IV post as per 7th Pay Commission Report to the petitioners till the regularization of their

services.

ii) Issue a writ, order or direction in the nature of Mandamus commanding the opposite parties to pay the arrears of differences of minimum of regular pay scale for class-IV post w.e.f. 01.01.2016 as per 7th Pay Commission Report to the petitioners reducing the amount already paid to them in the interest of justice"

3. Learned counsel for the petitioners has drawn attention of this Court towards Annexure No.16 of the writ petition, which is an order dated 21.01.2025 passed by this Court in Writ-A No.692 of 2025, Ram Kishor Yadav And Another Vs. State of U.P. through its Principal Secretary Agriculture Education and Research Lko. and 2 Others, which reads as under:-

"1. Heard learned counsel for the petitioners, learned Standing Counsel appearing on behalf of respondent no.1, and Sri Prashant Kumar Singh, learned counsel for respondents no.2 and 3.

2. With the consent of learned counsels for the parties, the writ petition is being decided finally.

3. The short controversy involved in the matter is that although the petitioners have been granted minimum of the pay scale as per sixth pay commission in pursuance to the judgment and order dated 15.05.2019 passed in a bunch of petitions leading being Writ Petition No.1814 of 2017 (SS) in re: Hanuman Prasad Pandey and 12 others vs. State of U.P. and others, a copy of which is part of Annexure-5 to the petition, yet they have not been granted the minimum of the pay scale as per seventh pay commission.

4. The contention is that the aforesaid controversy has already been examined by a Division Bench of this Court in a bunch of special appeals leading being Special Appeal No.435 of 2018 in re: Chandra Shekhar Azad Agricultural and Technological University and 2 others vs. Rajendra Prasad Pandey and 20 others, decided on 12.07.2018, a copy of which is Annexure-11 to the petition, yet the respondent University has not extended the benefit of the seventh pay commission pertaining to grant of minimum of the pay scale and hence the petition.

5. Responding to that Sri Prashant Kumar Singh, learned counsel for respondents no.2 and 3, points out that the Division Bench judgment of this Court in the case of Chandra Shekhar Azad Agricultural and Technological University (supra) pertains to some other University and not the University in which the petitioners are working. However, he does not dispute that in the aforesaid judgment the Division Bench has in fact directed for grant of minimum of the pay scale to the Daily Wagers at par with the regular employees who are entitled for the pay scales given under the recommendations of the seventh pay commission.

6. Having heard learned counsels for the contesting parties and having perused the record, it emerges that in the earlier round of litigation this Court vide judgment and order dated 15.05.2019 had directed the respondents to pay the petitioners the minimum of the pay scale till they are regularized in service. In pursuance thereof, the petitioners have been given the minimum of the pay scale as per sixth pay commission. However, they are not being given the minimum of the pay scale as per seventh pay commission. This aspect of the matter has been examined by the Division Bench of this Court in the case of Chandra Shekhar Azad Agricultural and Technological University (supra) wherein the Division Bench has held that the minimum pay, as a matter of fact, is nothing but quantification of labour sold by an employee to the employer and that this should also be in consonance with the principle of equal pay for equal work enshrined under Article 39(d) read with Articles 14 and 16 of the Constitution of India.

7. Incidentally, the SLP filed against the Division Bench judgment in the case of Chandra Shekhar Azad Agricultural and Technological University (supra) has been dismissed vide judgment and order dated 21.11.2024, a copy of which is Annexure-12 to the petition.

8. Even otherwise, the Hon'ble Supreme Court in the case of Sabha Shanker Dube vs. Divisional Forest Officer and others - [2019 (160) FLR 90] after considering its earlier judgment in the case of State of Punjab and others vs. Jagjit Singh and others - (2017) 1 SCC 148 has held that temporary employees are entitled to draw wages at the minimum of the pay scales which are applicable to the regular employees holding the same post.

9. Thus, keeping in view the law laid down by Hon'ble Supreme Court in the cases of Sabha Shanker Dube (supra) and Jagjit Singh (supra) as well as the Division Bench judgment of this Court in the case of Chandra Shekhar Azad Agricultural and Technological University (supra) and the fact that the petitioners have admittedly been given the minimum of the regular pay scale as per the sixth pay commission consequently there is no occasion for the respondents to not give minimum of the pay scale as per seventh pay commission.

10. Keeping in view the aforesaid discussion, the writ petition is allowed. A writ of mandamus is issued to the respondents to grant the minimum of the pay scale to the petitioners as per seventh pay commission as is being drawn by the regular employees working on the said post. The payment would be made till such time the petitioners are regularized in service in accordance with rules.

11. Let the respondents comply with the order within a period of six weeks from the date of receipt of a certified copy of this order.

12. The respondents would also consider for payment of arrears on the basis of sixth and seventh pay commission in accordance with rules within the aforesaid period provided there is no legal impediment."

4. Sri Satyanshu Ojha has stated that the aforesaid order covers the controversy in hand and the petitioners would be getting the benefit of aforesaid order, if they are still discharging their duties on the post in question.

5. Sri Kripa Shankar Shukla, has stated that the present petitioners are still discharging their duties.

6. Having considered the submissions of learned counsel for the parties and also the judgment of this Court in re; Ram Kishor Yadav (supra), this writ petition is allowed. A writ of mandamus is issued to the respondents to grant the current minimum of the pay scale to the petitioners as per seventh pay commission as is being drawn by the regular employees working on the said post. The payment would be made till such time the petitioners are regularized in service in accordance with rules.

7. Let the respondents comply with the order within a period of six weeks from the date of receipt of a certified copy of this order.

8. The respondents would also consider for payment of arrears on the basis of sixth and seventh pay commission in accordance with rules within the aforesaid period provided, if there is no legal impediment.

Order Date :- 1.4.2025 Reena/-

(Rajesh Singh Chauhan,J.)