

# **Arvind Singh vs State Of U.P. Thru. Prin. Secy. P.W.D. ... on 2 January, 2025**

**Author: Alok Mathur**

**Bench: Alok Mathur**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:83

Court No. - 6

Case :- WRIT - A No. - 4300 of 2024

Petitioner :- Arvind Singh

Respondent :- State Of U.P. Thru. Prin. Secy. P.W.D. Deptt. Lko. And 6 Others

Counsel for Petitioner :- Raj Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

1. Heard Sri Raj Kumar Singh, learned counsel for petitioner as well as learned Standing Counsel for respondents.
2. The grievance raised by the petitioner in the present case is with regard to for rejection of the application of the petitioner for grant of pension by respondent No. 6 i.e. Additional Director, Finance/Pension Directorate, Lucknow.
3. The fact in brief as stated by the petitioner are that petitioner was initially appointed as Roller Driver on daily wages basis in the Public Works Department w.e.f. 01.01.1986. The petitioner continuously worked on the said post for about 19 years and it is thereafter the respondents took a decision to regularise the services of the petitioner and other similarly situated persons by means of

order dated 16.03.2005.

4. The petitioners and other similarly situated persons were aggrieved by the date of regularisation and had consequently moved representations before their appointing authority i.e. respondent No. 5-Executive Engineer, Construction Division-I, P.W.D., Unnao. Respondent No. 5 decided the objections of the petitioner and also held that petitioner and also held that petitioners and 43 other similarly situated persons were entitled for regularisation i.e. w.e.f. 16.03.2005. Accordingly, a fresh seniority list was prepared which was published on the same day i.e. 16.03.2005 which has been annexed as Annexure No. 4 to the writ petition. In the said list, the name of the petitioner finds mention at serial No. 11.

5. The petitioner continued to work on the said post of Roller Driver till the date of his superannuation on 31.08.2023. It has further been stated that since the date of his regularisation i.e. 16.03.2005, the petitioner is getting salary in the regular scale of pay and all other benefits / facilities admissible to the regular class IV employees of State Government such as G.P.F., G.I.S., Medical reimbursement leave and gratuity. On attaining the age of superannuation, the petitioner had submitted all the papers for grant of pension and other post retiral benefits to respondent No. 5 who after due examination of the said papers has forwarded the same to respondent No. 6 on 12.09.2023.

6. The said facts are also borne out from the written instructions received on behalf of respondent No. 5. On being presented the papers pertaining to release of pension and other post retiral dues of the petitioner as well as representation made by the petitioner, the impugned order dated 23.02.2024 has been passed rejecting the same.

7. It has also been noticed that as respondent No. 6 did not take any decision with regard to representation of the petitioner, the petitioner was constrained to approach this Court by filing a writ petition being Writ A No. 198 of 2024 wherein by means of order dated 11.01.2024, this Court had directed respondent No. 6 to take a decision on the representation of the petitioner expeditiously, say, within a period of six weeks from the date of said order.

8. While rejecting the said representation, respondent No. 6 has duly taken cognizance of the fact that the service of the petitioner stood regularised from 16.03.2005 and the benefit which was extended to the petitioner pertaining to regularisation was also extended to 43 other similarly situated persons. It seems that the date of regularisation of the petitioner also finds mention in another order dated 24.02.2016 according to which it has been reiterated that the services of the petitioner stands regularised from 16.03.2005. It is on the strength of the order dated 24.02.2016 that respondent No. 6 has stated that the said order would be considered as the date of regularisation of the petitioner rather than the order dated 16.03.2005. It is solely on this ground that the representation of the petitioner has been rejected stating that regularisation cannot be given to him from the back date as per various Government Orders and he would stand regularised only w.e.f. 24.02.2016.

9. Learned Standing Counsel on the other hand has opposed the writ petition but does not dispute the aforesaid facts.

10. When a pointed query has been made to learned Standing Counsel as to whether 24.02.2016 is the letter of regularisation of the petitioner, he has fairly submitted that considering that an order has already been issued on 16.03.2005 stating that the petitioner would be entitled to be regularised from the said date itself, it cannot be said that the services of the petitioner stood regularised only from the order dated 24.02.2016 which in fact only reiterates the settled position with regard to date of regularisation of the petitioner which undisputedly is 16.03.2005.

11. It is in the aforesaid circumstances, this Court has been called upon to adjudicate validity of the order dated 23.02.2024 passed by respondent No. 6. From the perusal of the impugned order as well as from the rival submissions, it is clear that there is no factual dispute in the present case, the petitioner was initially appointed in 1986 on the post of Roller Driver under Executive Engineer, P.W.D, Unnao and he continued to function till the petitioner as well as similarly situated persons' services were regularised from 16.03.2005. 44 persons had given the representation with regard to incorrect date of regularisation indicated in their order and accordingly by means of order dated 16.03.2005 the Executive Engineer duly allowed the representation of the petitioner and corrected the service records holding that their date of regularisation would be 16.03.2005 instead of 24.02.2016. It has also recorded that in the seniority list which was also published simultaneously where the name of the petitioners are shown at serial No. 11.

12. It is for some purposes which has not been indicated either in the instructions or in the order itself, the order dated 24.02.2016 was passed again reiterating that the services of the petitioner stood regularised from 16.03.2024 and the said date should also be entered in the service records. It is clear from the aforesaid fact that it was not the first time that the petitioner was regularised but by means of order dated 24.02.2016 the date of regularisation of the petitioner was confirmed to be 16.03.2005. Respondent No. 6 while rejecting the representation of the petitioner has sought to treat letter dated 24.02.2016 as the order of regularisation of the petitioner. The said fact is incorrect and even from the bare perusal of the order dated 24.02.2016, it is abundantly clear that the services of the petitioner stood regularised by order dated 16.03.2005 which stood undisputed.

13. This Court finds no reasons either in the order or in the pleadings or in the written instructions submitted on behalf of respondent Nos. 1 to 5 and 6 and as to there being any dispute with regard to the date of regularisation of the petitioner to be 16.03.2005. Once it is clear that the services of the petitioner stood regularised from 16.03.2005 which was prior to the cut off date of 31.03.2005 till which date the old pension scheme was in existence, the petitioner in the aforesaid circumstances would be entitled for the old pension scheme by the State Government

14. The rejection by means of impugned order is totally illegal, arbitrary and without any application of mind. It is surprising that retired persons like petitioner are subjected to such harassment and passing of such unseasoned orders which from a bare perusal indicate that they have been passed without even appreciating the basic facts of the case.

15. In light of the above, the writ petition is allowed. The impugned order dated 23.02.2024 is quashed. The respondents are directed to proceed for considering to grant of pension to the petitioner treat his date of regularisaion to be 16.03.2005. Let respondent No. 6 pass appropriate orders within a period of four weeks from the date a certified copy of this order is produced before him.

(Alok Mathur, J.) Order Date :- 2.1.2025 Ravi/