

# **Ram Prakash Pandey vs State Of U.P. Thru. Prin. Secy. Deptt. ... on 3 March, 2025**

**Author: Alok Mathur**

**Bench: Alok Mathur**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:12575

Court No. - 6

Case :- WRIT - A No. - 2468 of 2025

Petitioner :- Ram Prakash Pandey

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Secretariats Administration Lko. An

Counsel for Petitioner :- Neeraj Trivedi,Ravi Pandey,Sandeep Kumar Tiwari

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

1. Heard learned counsel for the petitioner and the Standing counsel for the respondents.

2. It has been submitted on behalf of the petitioner that by means of the impugned order dated 31.8.2018 the claim of the petitioner along with another person namely, Radhey Shyam for grant of regularization from the date of initial appointment has been rejected. It has been submitted that the case of the petitioner and Radhey Shyam which were similar in nature was rejected by aforesaid common order. Radhey Shyam had assailed the validity of the order dated 31.8.2018 by filing writ petition bearing Writ A No.522 of 2024 which has been allowed by this Court on 14.11.2024. It is stated that once the order 31.8.2018 with regard to Radhey Shyam has been quashed then similar

order should also be passed with regard to petitioner whose case is on similar footing and accordingly the petitioner has claimed benefit of the judgment and order passed in the case of Radhey Shyam.

3. Learned Standing counsel though has opposed the writ petition but could not dispute the aforesaid fact that by means of order dated 31.8.2018 the case of the petitioner for grant of regularization from the date of initial appointment was rejected by a common order.

4. In light of the above, this Court finds that the petitioner also deserves similar treatment in as much as by means of the common order dated 31.8.2018 the case was rejected along with the case of Radhey Shyam and this Court vide judgment and order dated 14.11.2024 has allowed the case of Radhey Shyam, as such, the petitioner has right to be dealt with similarly on the same facts to that of Radhey Shyam.

5. In view of the above, the writ petition is allowed in terms of the judgment and order dated 14.11.2024 passed in Writ A No.522 of 2024 which is quoted as under:-

"1. Heard Sri Neeraj Trivedi, learned counsel for petitioner as well as learned Standing Counsel for respondents.

2. It has been submitted by learned counsel for petitioner that petitioner had joined on the post of Chair Reckoner on 19.02.1998 in Rajya Sampati Vibhag on ad hoc basis by means of appointment order dated 12.02.1998 in the pay scale of Rs. 2550-3200/- under the quota of physically challenged persons as the petitioner is blind.

3. After working for nearly 3 years, the services of the petitioner was considered for confirmation and by means of order dated 28.12.2001 the services of the petitioner along with other ad hoc employees were confirmed. the petitioner continued as such till date. Surprisingly, an order dated 19.10.2010 was passed cancelling his order of confirmation dated 28.12.2001 on the ground that at the time of his confirmation the services of the petitioner had not been regularized and accordingly respondents passed another order on the very next day i.e. on 20.10.2010 regularizing the services of the petitioner with effect from the same date.

4. The petitioner being aggrieved by the fresh exercise conducted by the respondents leading to passing of the orders dated 19.10.2010 and 20.10.2010, he approached this Court by filling a writ petition being Writ Petition No. 28718 (SS) of 2017. The said writ petition was disposed of in the following terms:-

"Heard.

After hearing the learned counsel for the parties and perusing the records it transpires that while regularizing the services of the petitioners who are physically disabled persons being blind, due to inadvertence instead of mentioning

'regularization' the word 'confirmation' was mentioned in the order dated 28.12.2001, therefore, it is this error which was rectified by the order dated 19.10.2010 and accordingly another order was passed on 20.10.2010 by which they were treated as 'confirmed' with effect from 20.10.2010 after treating them as 'regularized' with effect from 28.12.2001.

On a bare perusal of the two orders it is evident that the petitioners were to be treated as 'regularized' by the order dated 28.12.2001, but due to error they were mentioned as having been 'confirmed', which has been rectified as aforesaid, therefore, there is no error in the impugned order.

As regards the contention of the petitioners that they have not been granted financial upgradations under the Assured Progression Scheme, they may represent to the concerned authority who shall consider the matter as per the policy applicable and take appropriate decision in this regard within 2 months from the date a certified copy of this order is submitted.

The petition is disposed off in the above terms."

5. A perusal of the aforesaid judgment would indicate that the Court after perusing both the orders namely, 19.10.2010 and 20.10.2010 has interpreted the said orders in the manner that the services of the petitioner were to be treated as regularised by means of order dated 28.10.2001 but due to error they were mentioned as being confirmed which has been rectified by the order of this Court and after recording the said observations, the writ petition was disposed off.

6. Accordingly, there is no doubt that after reading both the orders, this Court is of the considered view that the services of the petitioner were in fact regularised from 28.12.2001 and confirmed w.e.f. 20.10.2010. In pursuance of judgment of this Court dated 28.10.2017, the respondents proceeded to pass another order dated 31.08.2018 wherein contrary to the observations of this Court treating the petitioner to have been regularized w.e.f. 20.10.2010. The petitioner in the present writ petition has challenged the validity of the order dated 31.08.2018.

7. Learned counsel for petitioner has submitted that even otherwise considering the provisions of Uttar Pradesh Regularization on Ad hoc Appointments (on post outside the purview of Public Service Commission) Rules, 1979. Section 4 provides :

"Section 4: Regularization on Ad hoc Appointments -(1) Any person who :-(i) was directly appointed on ad hoc basis on or before 30.06.1998 and is continuing in service as such on the date of commencement of Uttar Pradesh Regularization of Ad hoc Appointment (on post outside the purview of Public Service commission)( IIIrd Amendment) Rule, 2001"

8. Accordingly, the petitioner having been appointed prior to the cut off date i.e. 30.06.1998 and was fully eligible to be considered for regularization on the date i.e. 28.12.2001. Accordingly,

considering the judgment of this Court dated 28.11.2017 along with Rules of 1979, this Court finds that the respondents have incorrectly interpreted the judgment and applied the Rules of 1979 in the case of the petitioner.

9. There is no reason as to why the services of the petitioner should not be treated to have been regularized w.e.f 28.12.2001 as per the judgment of this Court dated 28.11.2017. This Court has further been informed that no special appeal has been filed by the State against the order dated 28.11.2017 which became final. In 2001 when the order of confirmation was passed the entire service record of the petitioner must have been examined by the competent authority, and order was passed when he was proved to have fulfilled all criteria. He continued as a confirmed employee till the said order was cancelled on 19.10.2010. The Coordinate Bench of this Court has put all the above orders in correct perspective and held that service of the petitioner stood regularized w.e.f. 2001, and therefore this Court is of the considered view that the petitioner would be entitled for all service benefits treating his regularization w.e.f. 2001.

9. In light of the above, the writ petition is allowed. The impugned order dated 31.08.2018 is set aside with regard to the petitioner and the respondents are directed to treat the petitioner's services having been regularised on. 28.12.2001 and accordingly they are directed to grant all service benefits to which he is entitled on the said date."

6. Accordingly, the impugned order dated 31.08.2018 is set aside with regard to the present petitioner also and the respondents are directed to treat the petitioner's services having been regularised on 28.12.2001 and accordingly they are directed to grant all service benefits to which he is entitled on the said date.

(Alok Mathur, J.) Order Date :- 3.3.2025 RKM.