

State Of U.P. vs Aishwarya Pandey on 3 December, 2021

Bench: M.R. Shah, B.V. Nagarathna

ITEM NO.8

Court 13 (Video Conferencing)

SECTION XI

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (C)

No(s). 19255/2021

(Arising out of impugned final judgment and order dated 17-09-2021
in SAD No. 335/2021 passed by the High Court Of Judicature At
Allahabad, Lucknow Bench)

STATE OF U.P. & ANR.

Petitioner(s)

VERSUS

AISHWARYA PANDEY

Respondent(s)

(FOR ADMISSION and I.R. and IA No.151456/2021-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.151457/2021-EXEMPTION FROM
FILING O.T.)

Date : 03-12-2021

This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s)

Mr. S R Singh, Sr. Adv.
Mr. Adarsh Upadhyay, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

1. It is not in dispute that the respondent was appointed on the post of Officer on Special Duty, maybe on compassionate ground. However, she was placed in the pay-scale of Rs.6500-10,500/- which was lower than the pay-scale required to be paid to Officer on Special Duty.

1.1 The respondent herein, filed the writ petition before the High Court. The High Court allowed the said writ petition directing the petitioners to pay Rs.8000-13,500/- pay-scale, which pay-scale was available for the post of Officer on Special Duty. 17:28:03 IST Reason:

2. Learned senior counsel appearing for the petitioners submits that as such the respondent was appointed on supernumerary post and even she could not have been appointed on the post of Officer on Special Duty on compassionate appointment as the said post was required to be filled by the

Public Service Commission.

The aforesaid submission has no substance at all. Once a person is appointed on a particular post, maybe on compassionate ground, that person is entitled to the pay-scale of the same post. 2.1 Learned counsel for the State submits that the respondent could not have been appointed as Officer on Special Duty as the same was required to be filled by the Public Service Commission.

3. It is the petitioner – State which appointed the respondent on compassionate ground on the post of Officer on Special Duty. Thereafter, it is not open for the State to contend that the respondent could not have been appointed on compassionate ground on the post of Officer on Special Duty as the same was required to be filled by the Public Service Commission. There cannot be two different pay-scales for the employee appointed on compassionate ground and the employee appointed on regular basis. The moment a person is appointed on a particular post, that person is entitled to the pay-scale of the very post, even if the appointment is on compassionate ground. At this stage, it is required to be noted that even in the case of similarly situated employees, the similar benefit was granted.

4. In view of the above, there is no substance in the present special leave petition and the same deserves to be dismissed and is, accordingly, dismissed.

5. At the request of learned counsel appearing for the petitioners, we grant further two weeks time from today to the State to implement the judgment and order passed by the High Court. Pending applications stand disposed of.

(MEENAKSHI KOHLI)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
BRANCH OFFICER