

Allahabad High Court

Vijay Singh vs State Of U.P. And 4 Others on 28 September, 2020

Bench: Rohit Ranjan Agarwal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 10

Case :- WRIT - A No. - 7425 of 2020

Petitioner :- Vijay Singh

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Vineet Kumar Singh

Counsel for Respondent :- C.S.C., Vikram Bahadur Singh

Hon'ble Rohit Ranjan Agarwal, J.

Heard Sri Vineet Kumar Singh, learned counsel for the petitioner, learned Standing Counsel for the respondent nos. 1 and 2 and Sri Vikram Bahadur Singh, learned counsel for the respondent nos. 3 and 4.

It is contended that the petitioner was appointed as a Peon on class IV post in the year 1981 in Janta Madhyamik Vidyalaya, Kamet, Etawah and he attained the age of superannuation on 31.07.2017. Thereafter, he was paid the entire retiral dues except the gratuity. He has moved a representation before the District Basic Education Officer, Etawah, which was rejected vide order dated 25.10.2018, which is under challenge in the present writ petition.

Sri Vineet Kumar Singh, learned counsel for the petitioner, has placed reliance on a decision of this Court in the case of Dharmatma Saran Vs. State of U.P. and others (Writ-A No. 5139 of 2020) decided on 02.09.2020 wherein this Court has quashed the order impugned and directed for the payment of gratuity to class IV employee also as is being payable to class III employee of a junior high-school. The extract of the order relied upon are quoted as under;

"Heard learned counsel for the parties.

The present petition has been filed challenging the order dated 01.05.2019 (Annexure-7 to the writ petition) whereby the respondents have taken stand that in terms of the Government Order dated 25.8.2005 only Class-III employees of aided Junior High School are entitled for payment of gratuity and not the Class-IV employees.

The counsel for the petitioner argues that in similar circumstances a Class-IV employee Narayan Singh had approached this Court by filing Writ-A No. 5879 of 2017 (Narayan Singh vs. State of U.P. and 5 others) wherein a similar issue was agitated.

This Court by means of a detailed judgement dated 3.5.2019 categorically held that Class-IV employees would also be entitled for payment of gratuity which had been extended to the Class-III employees only. The High Court further issued a mandamus as extended here-in-below:

"Apart from the same, it appears that for the non-payment of gratuity to the Class IV employees, large number of writ petitions had been filed before this Court from time to time. In some of the writ petitions, orders were passed and the gratuity was released but unless and until there is an order of this Court, the respondents are not releasing the gratuity to the Class IV employees working in a recognized and aided Junior High School. For the purpose of gratuity, only retired persons are approaching this Court, in the circumstances this Court thinks it proper to issue a Mandamus to the State Government to issue a Government order for the payment of gratuity to Class IV employees working in a recognized and aided Junior High Schools through out the State in order to reduce the litigation before this Court. The aforesaid exercise be completed within a period of four months from the date of presentation of certified copy of this order."

The counsel for the petitioner further argues that in similar circumstances, this Court had passed an order dated 03.5.2019 in Writ-A No. 59565 of 2017 (Funni Lal vs. State of U.P. and others) in which directions were issued for payment of gratuity to Class-IV employees who were similarly placed. It is further stated that in compliance of the directions given in Writ-A No. 59565 of 2017, the State Government issued a direction dated 31.1.2020 for payment of the gratuity, however, the said said indicated that it shall not be treated as a precedent. It is also argued at the bar that the judgement dated 03.5.2019 in the case of Narayan Singh (supra) had attained finality and has not been challenged and thus in view of the said judgement, the petitioner being a Class-IV employee of an aided Junior High School is entitled to the payment of gratuity.

Considering the judgement passed by this Court in Narayan Singh (supra), there is nothing on record for me to take a view different from the view taken by this Court in its judgement dated 03.5.2019. Thus, I respectively agree with the said judgement and following the same, the order dated 01.5.2019 is set aside and specific mandamus is issued for payment of gratuity to the petitioner in accordance with law and similarly to what has been paid to Funni Lal by the State Government. The said payment of gratuity be paid expeditiously, preferably within a period of four months from the date of filing of an application before the respondent no. 2. A further mandamus is issued to the respondent no. 1 to issue directions for payment of the gratuity to the petitioner as was done vide letter dated 31.1.2020 in the case of Funni Lal.

The writ petition is allowed in terms of the said order. "

On the other hand Sri Vikram Bahadur Singh, learned counsel appearing for the respondent nos. 3 and 4, has not disputed the legal proposition and the case law relied upon by learned counsel for the petitioner.

Having heard learned counsel for the parties and in view of the judgment rendered in the case of Narayan Singh Vs. State of U.P. and others (Writ-A No. 5879 of 2017) as well as Dharmatma Saran (Supra), the order impugned dated 25.10.2018 is hereby quashed. Respondent no. 2 is directed to release the gratuity amount to the petitioner, as has been held in the case of Dharmatma Saran (Supra), within a period of six months from the date of receipt of copy of this order downloaded from the website of the High Court.

Writ petition stands allowed.

Order Date :- 28.9.2020 Shekhar