



2026:AHC:163142

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 40244 of 2009

Pankaj Saxena

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Anil Tiwari, Preet Pal Singh Rathore
Counsel for Respondent(s)	:	C.S.C.

Court No. - 34

(SN.10)

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Ms. Anjali Shukla, Advocate holding brief of Sri Preet Pal Singh, learned counsel for the petitioner and Sri Rajiv Gupta, learned Additional Chief Standing Counsel for the State.

2. The instant writ petition has been filed with the following relief :

"i. Issue a writ, order or direction in the nature of certiorari calling for the records to quash the impugned order dated 05.05.2005 passed by the Collector Meerut (Annexure NO. 1) to this writ petition.

ii. Issue a writ, order or direction in the nature of mandamus commanding the respondents to appoint the petitioner immediately on the post of Clerk / A.W.B.N. in Collectorate Meerut and to give all consequential benefits w.e.f. 1999, when the Regular vacancies meant A.W.B.N. were for the post filled up contrary to Rules and judgment of this Hon'ble Court.

iii. Issue a writ, order or direction in the nature of mandamus commanding the respondents to grant the petitioner all consequential benefits."

3. The briefly stated facts of the case are that petitioner was engaged as Seasonal Assistant Vakil-Baqi- Navis (SAWBN) on 31.10.1994. He was continued to be engaged as such from time to time. Thereafter, the petitioner has filed a Civil Misc. Writ Petition No. 1057 of 1999, claiming that the petitioner be appointed as Assistant Vakil-Baqi- Navis (AWBN)/Clerk against 35% quota from the Seasonal AWBN, as has been held by this Court in the previous judgments. The said writ petition of the petitioner was allowed and a direction was given to District Magistrate, Meerut, to consider the case of the petitioner for promotion / selection on the post of SAWBN / Clerk in accordance with law, which has been held and declared by this Court in cases referred in Para 6 of the writ petition.

4. In Para 6 of the said writ petition, the cases of ***Virendra Singh vs. Collector, Kanpur Dehat and others, 1997 AWC 397*** and ***Jai Singh vs. State of UP, 1997 3 ESC 1847***, Allahabad, were referred, wherein it was provided that as there is a provision for promotion / selection on the post of Collection Amin to the extent of 35% from the Seasonal Collection Amins in terms of UP Collection Amins Service Rules, 1974, though there is no specific rules or provision with regard to the selection on the post of AWBN from such Seasonal AWBN. However, since the similar benefit was accorded to the other Seasonal AWBN by various orders of the Court, the petitioner also to be considered for selection / appointment on the post of AWBN and it was also provided that the same age relaxation as is available to the Seasonal Collection Amins, be also provided to the Seasonal AWBN in making such selection / appointment against 35% quota.

5. In terms of the aforesaid order dated 16.11.2002, passed in the writ petition filed by the petitioner, the petitioner herein has approached the District Magistrate, Meerut, by moving a fresh representation on 28.04.2004/29.04.2004. Thereafter, vide impugned order dated 05.05.2005, the claim of the petitioner was rejected on the ground that since 1999 till the impugned order was passed, no post of AWBN had fallen vacant, therefore, no selection has been made for the said post.

6. Learned counsel for the petitioner submits that despite the direction of this Court, the claim of the petitioner for selection / appointment to the

post of AWBN has not been considered by the District Magistrate, Meerut, whereas the District Magistrate, Meerut was under an obligation to consider and give appointment to the petitioner on the post of AWBN. Therefore, learned counsel for the petitioner claims that though the petitioner is now about 88 years of age, he should be given appointment to the post of AWBN w.e.f. 1999 and all consequential benefits should be awarded to the petitioner.

7. *Per contra*, learned Additional Chief Standing Counsel for the State submits that even if, the 1974 Rules may be considered and applied in the case of Seasonal AWBN for selection and appointment on the post of AWBN, subject to the age limit as provided in 1974 Rules, for the appointment and selection of the Collection Amins as was directed by this Court in previous petition filed by the petitioner, since the said rule itself provides the upper age limit of 45 years.

8. It is admitted case of the petitioner that even in the year 2002 when this Court has passed the order in the earlier petition of the petitioner, the petitioner was beyond the age of 45 years and further, in the impugned order it has been notified that no vacancy to the post of AWBN has ever occurred after the said order was passed till the consideration of the case of the petitioner in the District, Meerut, under no circumstances and appointment could have been given to the petitioner, therefore, there was no illegality in the impugned order. Consequently, learned Additional Standing Counsel for the State seeks dismissal of the instant petition.

9. Having heard the rival submissions so made by learned counsel for the parties, this Court has carefully gone through the record of the case.

10. The claim of the petitioner in the instant petition is based on the observation of this Court in previous writ petition of the petitioner being ***Civil Misc. Writ Petition No. 1057 of 1999 (Pankaj Saxena vs. State of UP and Others)***, dated 16.11.2002, relevant portion of the said judgement reads as under:

"6. In the case of appointment to the post of Assistant Wasil Baqi Nawis there does not seem to be any subordinate service claiming the right for promotion to the post of Assistant Wasil

Baqu Nawis. It would be appropriate that 35% posts are to be given to the Seasonal Assistant Wasil Baqi Nawis in accordance with their seniority but subject to the conditions. their work and conduct had been good. For this purpose the District Magistrate concerned may prepare a seniority list and thereafter appoint a selection committee for considering the cases of such Seasonal Assistant Wasil Baqi Nawis. As in collection Amins Rules 1974 the criteria has been fixed for six seasons the same criteria may be applicable with regard to Seasonal Assistant Wasil Baqu Nawis as well subject to other qualification eligibility and age limit. The age limit may be relaxed to the extent provided for Seasonal Collection Amin.

Veerendra Singh Vs. Collector, Kanpur Dehat and others (19 AWC 397), in which it has been held that "in the case of appointment to t post of Assistani Wasil Baqi Nawis, there does not seem to be a subordinate service claiming the right for promotion to the post of Assista Wasil Baqi Nawis. It would be appropriate that 50% vacancies should t filled up by direct recruitment and 50% posts are to be given to the Season Assistant Wasil Baqi Nawis in accordance with their seniority but subject t the conditions their work, and conduct had been good. For this purpose, th District Magistrate concerned may prepare a seniority list and thereafte. appoint a selection committee for considering the cases of such Seasona Assistant Wasil Baqi Nawis. As in Collection Amias Rules 1974, the criteria has been fixed for six seasons, the same criteria may be applicable with regard to Seasons Assistant Wasil Bagi Nawis as well sübject to other qualifications, eligibility and age limit. The age limit may be relaxed to the extent provided for seasons Collection Amins".

Jai Singh Vs. State of U.P. (1997 (3) ESC 1847 (Alld.), in which this Court has held that "in as much as the seasonal A. W.B.N. if they are eased out of the selection in that event it would work a grave injustice to them when equally situated brothern as seasonal collection amins are given such an

opportunity. While engaging such people in work and then rejecting them in the matter of appointed, surely work out an injustice which the State has responsibility to prevent. Then again by engaging people as seasonal A.W.B.N. the denial of opportunity to be recruited in permanent post by promotion through selection would definitely mean as exploitation from which it is the duty of the State of save to these unfortunare people. In present case the petitioner was selected by the selection committee and his hame was placed at Sl. No. 11. Though persons at Sl. Nos. 1 to 10 and 12 were given appointment, despite having been placed at Sl. No. 11, the petitioner's case was over looked. Therefore, now the State cannot (sic) round and take a contradictory stand. In case the petitioner is selected and placed at Sl. No. 11 and the person at Sl. No. 12 is given appointment, then the petitioner is definitely entitled to an appointment, unless he is found otherwise unfit for appointment despite having been selected and eligible on. other ground. If the petitioner's name is included in the selection list, in that event, if there is any vacancy it is incumbent upon the respondents to give appointment to the petitioners. Therefore, if the petitioner is selected and if his name finds place at Sl. No. 11 in the selection list as aforesaid and if there is any vacancy, he should immediately be absorbed in the post of AW.B.N. and should be given all benefits of service from the date when the person at Sl. No. 12 in the same selection list was given appointment and shall be entitled to all benefits including seniority and other service benefits."

From a perusal of the notifications it is crystal clear that there are total 33 yacancies for which the respondents are going to make direct recruitment whereas as per Rules and the law declared by this Court 35% of these vacancies shall only be filled up by way of promotion from the seasonal A.W.B.N. In this way, the holding of this selection without separating 35% of posts from the total posts of A.W.B.N. is illegal.

In view of the pronouncement of this Court the post of seasonal

A.W.B.N. is a feeder post for the post of AW.B.N. and as given in the Collection Amin Service Rules only 50% of the total vacancies of A.w.B.N. can be filled up by way of direct recruitment. Out of remaining 50% of the vacancies 35% shall be filled up by way of promotion on the basis of selection from the seasonal A.W.B.N. in accordance with their respective Seniority. Thus the petitioner is entitled for promotion/selection on the post of A.W.B.N./Clerk in the Collectorate which is lying vacant.

In the result, the writ petition is allowed. The impugned order dated 8.12.1998 passed by the District Magistrate, Meerut is quashed. A writ in the nature of mandamus is issued commanding the respondents to consider the case of the petitioner for promotion/selection on the post of A.W.B.N./Clerk in accordance with law which has been held and declared by this Court in cases referred in para 6 of this petition as well as in the light of the observations made in the body of this judgment."

11. From the perusal of the aforesaid observation and the previous judgment of this Court, it is apparent that the benefit of the Collection Amins Rules, 1974, which is available to the Seasonal Collection Amins to the extent of 35% has also been granted in the case of AWBN. Rule 5 of the UP Collection Amins Service Rules, 1974 provides as under:

"15. Source of recruitment.- (1) *Recruitment to posts in the ordinary grade of the service shall be made on the result of a competitive examination as provided in Part V of these rules:*

Provided that subject to availability of suitable candidates, up to fifteen per cent of the vacancies shall be filled by promotion from amongst such substantively appointed collection peons:--

(a) who have passed at least High School Examination of the Board of High School and Intermediate Education, Uttar Pradesh or an Examination recognised by the Government as

equivalent thereto; and

(b) Who have worked in the Collection Organisation of the Revenue Department for a period of at least six Fasals:

Provided further that thirty-five per cent vacancies shall be filled by selection from amongst such Seasonal Collection Amins-

(a) who have worked satisfactorily for at least four Fasals:

(b) Whose age on the first day of July of the year in which selection is made does not exceed 45 years:

Provided also that if suitable candidates are not available, remaining vacancies shall be filled by general candidates through direct recruitment."

12. From the perusal of the aforesaid rules, specifically the *proviso (b)*, which categorically provides that the upper age limit on the first day of the year when the selection is to be made is 45 years. Therefore, even if the benefit of the Collection Amin Service Rules is granted to the petitioner, the petitioner was admittedly age-barred and much beyond the age of superannuation even on the date when the order dated 16.11.2002 was passed in the previous writ petition of the petitioner and in the impugned order, it has also been observed by the District Magistrate that during the said periods between 1999 till 2005, no vacancy to the post of AWBN has occurred in the District Meerut. In such view of the matter, there was no question of appointment of the petitioner as AWBN against the 35% quota as claimed by the petitioner. Thus, no relief can be accorded to the petition.

13. In such view of the matter, this court do not find any merits in the claim of the petitioner. Accordingly, the instant writ petition is ***dismissed***.

(Anish Kumar Gupta,J.)

August 5, 2026
Shubham Arya