



2026:AHC:28702

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 1115 of 2024

Virendra Kumar

.....Petitioner(s)

Versus

State Of Up Through Principal Secretary Transport
And 7 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Bajarang Bahadur Singh
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Bajrang Bahadur Singh, learned counsel for the writ petitioner as well as Sri D.K. Srivastava, learned Standing Counsel for the State.
2. Since counter and rejoinder affidavits have been exchanged between the parties and according to the rival parties they do not propose to file any further affidavits, the writ petition is being decided at the admission stage.
3. The case of the writ petitioner is that in the Regional Transport Office, Varanasi a post of Peon stood vacant due to promotion of the Peon Shri Bechan Prasad and the petitioner in the resultant vacancy was appointed on ad hoc basis as Peon on 2.3.1989 and he assumed the charge on 7.3.1989. An order came to be passed on 7.7.2004 passed by the Additional Transport Commissioner (Head Office, U.P.), whereby the petitioner was transferred from Regional Transport Office, Varanasi to Regional Transport Office, Mirzapur and the writ petitioner was relieved on 21.7.2004. Vide order dated 5.5.2006 passed by the Regional Transport Officer, Mirzapur the services of the writ petitioner was regularised with effect from 7.3.1989. Thereafter on 21.7.2006 the Deputy Transport Commissioner, Varanasi, Region Varanasi passed an order regarding Assured Career Progression (A.C.P.) benefit. The writ petitioner claims to have been promoted on the post of Junior Assistant on 18.10.2014 pursuant to an order passed by Regional Transport Officer, Varanasi.
4. Since, according to the writ petitioner he was appointed on substantive basis with effect from 7.3.1989 and the ACP benefits have already been

provided to the writ petitioner from time to time, thus the petitioner post completion of 26 years of service claimed third ACP, which was accorded to him on 18.2.2016. The writ petitioner post completion of 3 years of satisfactory service on the post of Junior Assistant by the order dated 15.5.2018 was regularised on the post of Junior Assistant and on the basis of the recommendation of the Departmental Promotion Committee dated 11.11.2019, the petitioner was promoted on the post of Senior Assistant and, thereafter the writ petitioner retired from the post of Senior Assistant on 31.1.2023. Post retirement, the writ petitioner used to approach the respondents for payment of post retirement benefits. However, on 15.9.2023/18.9.2023, the seventh respondent, Joint Director Treasury and Pension, Vindhyachal Region, Mirzapur, raised an objection regarding payment of pensionary benefits and gratuity.

5. The writ petitioner thereafter preferred representation on 4.10.2023 for grant of said benefits and on 12.10.2023 the Additional Transport Commissioner (Administration), Uttar Pradesh correspondence with the Additional Regional Transport Officer, Administration, Bhadohi (Sant Ravi Das Nagar) to provide inputs regarding the payment of pensionary benefits and thereafter the second respondent, Assistant Transport Commissioner (Administration, Lucknow, U.P.) issued communication which was followed by another communication dated 17.10.2023, however, the writ petitioner was not paid the pensionary benefits which constrained the writ petitioner to file the present writ petition seeking relief from Joint Director Treasury and Pension, Vindhyachal Region, Mirzapur, seventh respondent and Chief Treasury Officer, Sant Ravi Das Nagar (Bhadohi) to accord the arrears of pension along with interest from the date of superannuation 31.1.2023. The writ petition was entertained by this court on 1.2.2024 by seeking response. Counter affidavits have been filed on behalf of respondent nos. 2 and 4 sworn by Assistant Regional Transport Officer, Sant Ravidas Nagar, Bhadohi dated 2.8.2024 and a counter affidavit was also filed on behalf of respondent no.7 sworn by Joint Director, Treasury and Pension, Vindhyachal Region, Mirzapur, dated 14.5.2024. Rejoinder affidavit has also been filed by the writ petitioner.

6. Learned counsel for the petitioner has sought to argue that the order impugned cannot be sustained in eyes of law. Learned counsel for the

petitioner submitted that pensionary benefits are entitled to be extended to the writ petitioner particularly, when though the writ petitioner was appointed on ad hoc basis on 7.3.1989 but his services was stood regularised by virtue of the order dated 5.5.2006, then the writ petitioner is entitled to the payment of pension while reoccurring the period from 7.3.1989 till the date on which the writ petitioner should stood regularised on 5.5.2006 and the date of retirement i.e. 31.1.2023.

7. Submission is that the objection so raised by the seventh and eighth respondent that the writ petitioner stood regularised on 5.5.2006 thus the writ petitioner is not entitled to get pensionary benefits and is not sustainable in the eyes of law. Shri B.K. Shrivastav, learned Standing Counsel who appears on behalf of the respondents on the basis of averments contained in the paragraph nos. 4, 7, 8 and 9 has sought to argue that the writ petitioner is not entitled to payment of pension in view of the fact that his services were illegally regularized with effect from 7.3.1989 by virtue of the order dated 5.5.2006. He further submits that a conscious decision is to be taken by the respondents in that regard.

8. I have heard the submissions so made across the bar and peruse the record.

9. Apparently, facts are not in issue. It is not in issue that the writ petitioner was appointed on the post of Peon on temporary/ad hoc basis on 7.3.1989 and thereafter an order came to be passed on 5.5.2006 by the Regional Transport Officer, Mirzapur regularizing the services of the petitioner with effect from 7.3.1989. The order dated 5.5.2006 is quoted herein under.

"शासनादेश सं० 15-18/86 का-1-2001 दिनांक 20-1-2001 (उ०प्र० लोक सेवा आयोग के क्षेत्र के बाहर के अर्थों परख) तदर्थ नियुक्तियों का विनियमितीकरण (तृतीय संशोधन) नियमावली 2001 के प्रावधानों के अनुसार गठित चयन समिति दिनांक 5-5-2006 की संस्तुति के आधार पर श्री वीरेन्द्र कुमार चपरासी तदर्थ नियुक्ति दिनांक 7-3-99 को की गई थी, की सेवाएं उनकी नियुक्ति की तिथि 7-3-89 से विनियमित की जाती है।"

10. On a pointed query being raised to the learned Standing Counsel whether the order dated 5.5.2006 has been revoked or cancelled, the answer is in negative.

11. Apart from the same the writ petitioner was accorded A.C.P. on 21.7.1986 and thereafter he was promoted on the post of Junior Assistant on 18.10.2014 and Senior Assistant on 11.11.2019. The said averments have been made in paragraph nos. 6, 8 and 9 of the writ petition. The averments made in paragraph nos. 6, 8 and 9 of the writ petition stands replied in para 14 of the counter affidavit filed by respondent no.7. The basic objection taken by the respondents is that the writ petitioner is entitled to the benefits from the date of regularization. In the opinion of the court, since the order dated 5.5.2006 granting regularization to the writ petitioner from 7.3.1989 still in existence and the writ petitioner based upon the said order was granted promotion, ACP and other benefits, thus it is not open for the respondents to take a sum assault while negating the claim of the petitioner on the basis of rejecting the claim of the writ petitioner.

12. At this stage, Shri D.K. Srivastava, learned Standing Counsel, submits that the claim of the petitioner needs examination at the first instant by respondent no.2-Additional Transport Commissioner (Administration), U.P., Lucknow.

13. Accordingly, to such a submission learned counsel for the petitioner has no objection.

14. Accordingly, the writ petition stands disposed of granting liberty to writ petitioner to approach the second respondent-Additional Transport Commissioner (Administration), U.P., Lucknow, by filing a comprehensive representation along with photostat copy of the petition by 27.2.2026 and the said motion, the second respondent shall consider the claim of the writ petitioner in view of the aforesaid discussion within a period of two months, thereafter.

(Vikas Budhwar,J.)

February 6, 2026

Virendra