



2026:AHC:26731

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 8053 of 2024

Suresh Yadav

.....Petitioner(s)

Versus

State Of Up And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Rajesh Yadav, Sitaram Yadav
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Rajesh Yadav, learned counsel for the petitioner and Sri R.S. Umrao, learned Standing Counsel, who appears for State-respondents.

2. Since counter and rejoinder affidavits have exchanged between the parties and parties do not propose to file any further affidavit and the petition be decided on the basis of the documents available on record, thus with the consent of the parties, writ petition is being decided at the fresh stage.

3. The case of the writ petitioner is that he was initially appointed as Class-IVth employee on 05.09.1987 after facing the selection process. According to the writ petitioner, juniors to the writ petitioner were accorded regularization but the claim of the writ petitioner was not considered so the writ petitioner preferred Writ-A No. 10327 of 2005 along with Writ-A No. 15694 of 2003 which came to be disposed of on 20.09.2013, the following orders observed as under:

"Heard learned counsel for the petitioner, learned Standing Counsel appearing on behalf of State and perused the record.

Both the writ petitions no.15694 of 2003 and 10327 of 2005 have been preferred by Suresh Yadav challenging the advertisement dated 5.9.2002 and 14.1.2005 and further to issue mandamus to regularise the service of petitioner.

Learned counsel for the petitioner submitted that petitioner is working on daily wages basis as a class IV employee continuously w.e.f. 5.9.1987. Those persons, who were junior to the petitioner namely Ram Karan Yadav, Maan Singh, Munnar Yadav and Vijay Pratap Singh have been regularised. The writ petition was filed by Vijay Pratap Singh and in pursuance of the judgment and order dated 24.9.2002 passed in Writ

Petition No.40366 of 2002 he was appointed in the pay scale of Rs.2550/- to 3200/- by order dated 12.12.2002, however, still the services of petitioner has not been regularised hence direction be issued for regularisation of his services

Learned Standing Counsel submitted that regularisation of the petitioner has to be considered under the U.P. Regularisation of Daily Wages Appointment of Group D Rule, 2001 against the existing vacancy and since there was no existing vacancy, services of the petitioner could not be regularised.

Considered the submission of learned counsel for the parties. Admittedly, the petitioner was working since 1987 on daily wages basis. The claim of the petitioner should have been considered for regularisation under the U.P. Regularisation of Daily Wages Appointment of Group D Rules, 2001. The services of persons, who were junior to the petitioner have already been regularised and after direction in the writ petition filed by Vijay Pratap Singh the order was passed for his regular appointment. Hence in view of the facts and circumstances, if the services of the petitioner has not been regularised, the act of the respondents are arbitrary, illegal, and not only against the principle of natural justice but against the violation of Article 14, 16 and 21 of the Constitution of India. Hence the respondents are directed to consider the claim of the petitioner for regularisation in view of the Rules, 2001 and subsequent government orders as expeditiously as possible, preferably, within six weeks after furnishing certified copy of this order.

With these observations, both the writ petitions are finally disposed off. Interim order stands discharged."

4. Thereafter according to the writ petitioner on 28.05.2014, the writ petitioner was accorded regularization, however, the claim of the writ petitioner for regularization from the date, juniors were accorded, was not considered so the writ petitioner preferred Writ A No. 1294 of 2020 which came to be disposed of on 12.01.2024, the following orders observed as under:

"1. The petitioner has preferred the present petition with the following prayer:-

(I) Issue a writ order or direction in the nature of mandamus commanding the respondents/ authority concerned specially the respondent No.2, to regularize the services of the petitioner since 12-12-2002 as IVth class employee.

(II) Issue a writ order or direction in the nature of Mandamus directing the respondents to pay the arrear and other consequential benefits since 12-12-2002, along with interest at prescribed rate, in accordance with Law, within some stipulated time frame as fixed by this Hon?ble court.

2. *It is argued by learned Standing Counsel for the petitioner that the petitioner has already been regularized on the post in question in the year 2014 and in case, he wants his promotion would be from 12.12.2002, he should approach to the concerned respondent.*

3. *It is argued by learned counsel for the petitioner that the petitioner has already made representation before the authorities but till date no final decision has been taken in the matter.*

5. *Heard learned counsel for the parties and perused the record.*

6. *In the facts and circumstances of the case, the present petition is disposed of directing the petitioner to file fresh representation ventilating all his grievances before the concerned respondent within a period of three weeks from today. If such a representation has been filed within the stipulated period, the concerned respondent will pass appropriate orders on the aforesaid representation most expeditiously and preferably within a period of three months thereafter."*

5. Thereafter now the order impugned dated 19.04.2024 has been passed by Chief Medical Officer, Azamgarh negated the claim of the writ petitioner.

6. Questioning the same, the writ petitioner has been filed the present writ petition.

7. Learned counsel for the writ petitioner has submitted that the order impugned cannot be sustained even for the simple reason that the order impugned does not consider the aspect relating to regularization of the claim of the writ petitioner from the date, juniors have been accorded. He submits that the said aspect which goes to the root of the matter which negated without going into the same.

8. Learned Standing Counsel on the basis of the averments contained in para-6 of the writ petition has supported the order. However, according to him, the order in question does not recite any reasons in negating the claim of the writ petitioner.

9. I have heard learned counsel for the parties and gone through the records carefully.

10. Facts are not in issue. It is not in issue that the writ petitioner had claimed regularization from the date, the juniors have been accorded. Writ-A No. 10327 of 2005 along with Writ-A No. 15694 of 2003 was preferred which was came to be disposed of consideration of the claim of the writ

petitioner for regularization from the date, juniors have been accorded. Thereafter the writ petitioner was accorded regularization on 28.05.2014 but no from the date juniors so the writ petitioner preferred Writ A No. 1294 of 2020 which came to be disposed of on 12.01.2024 requiring the respondents to consider the claim and thereafter now the order dated 19.04.2024 has been passed. The order dated 19.04.2024 is quoted hereinunder:

"प्रत्यावेदन निस्तारण

श्री सुरेश यादव पुत्र राम शकल यादव

ग्राम लखमनपुर पट्टी बदल राय,

पोस्ट-नसीरुद्दीनपुर,

तहसील निजामाबाद, जिला आजमगढ़।

माननीय उच्च न्यायालय के आदेश दिनांक-12/01/2024 (याचिका संख्या-A-1294/2020) के अनुपालन एवं याची के प्रत्यावेदन दिनांक-25/01/2024 जो अधोहस्ताक्षरी कार्यालय में दिनांक 27/01/2024 को प्राप्त हुआ, के क्रम में आपको अवगत कराया जा रहा है कि इसके पूर्व आपने एक अन्य याचिका संख्या-A-15694/2003 with 10327/2005 (सुरेश यादव बनाम उ०प्र० राज्य व अन्य) में पारित आदेश दिनांक-20/09/2013 का अनुपालन करते हुए याची को दिनांक-28/05/2014 से विनियमित किया जा चुका है। जिसके प्रमुख अंश इस प्रकार है

"मा० उच्च न्यायालय इलाहाबाद में दायर रिट याचिका संख्या 15694/2003, 10327/2005 श्री सुरेश यादव बनाम अन्य में पारित आदेश दिनांक 20-9-2013 में दिये गये निर्देश के परिपालन में, निदेशक (प्रशासन) चिकित्सा एवं स्वास्थ्य सेवाये उ०प्र० लखनऊ के पत्र संख्या 4 डी (1)/टी०सी०/172/2013/1354 दिनांक 10 मार्च 2014 में दिये गये निर्देश एवं मुख्य स्थायी अधिवक्ता मा० उच्च न्यायालय इलाहाबाद के परामर्श दिनांक 26 मार्च 2014 के अनुपालन में श्री सुरेश यादव पुत्र स्व० स्व० रामशकल यादव, ग्राम लखमलपुर पोस्ट नसिरुद्दीनपुर तहसील निजामाबाद जिला आजमगढ़ को प्रा०स्वा० केन्द्र पल्हनी आजमगढ़ में रिक्त एच०वी० प्यून के पद पर वेतन वैण्ड रु० 5200-20200 (ग्रेड वेतन रु० 1800) में दिनांक 23-5-2014 से विनियमित किया जाता है। ये अपने योगदान की सूचना निम्न अभिलेखों के साथ प्रभारी चिकित्साधिकारी प्रा०स्वा० केन्द्र पल्हनी आजमगढ़ को प्रस्तुत करेंगे।"

माननीय न्यायालय का आदेश- 20/09/2013 के अनुपालन में याची का नियमानुसार 2014 में रिक्त पद के सापेक्ष विनियमित किया जा चुका है पुनः याची का विनियमितीकरण नियमानुसार उसके पूर्व से किया जाना संभव नहीं है एवं याची का विनियमितीकरण 2005 के पश्चात् होने के कारण पेंशन का लाभ व अन्य पेंशनरी लाभ देय नहीं है। इसी तथ्य के साथ याची का प्रत्यावेदन दिनांक-25/01/2024 को निस्तारित किया जाता है।

भवदीय

मुख्य चिकित्साधिकारी, आजमगढ़।"

11. A bare look of the impugned order would reveal that the same deals with the aspect of the writ petitioner has raised in his representation and which was subject matter in previous spell of litigation on two occasions. Since the aforesaid aspect has been conveniently overlooked thus the order impugned cannot be sustained.

12. Accordingly, the writ petition is being partly allowed.

(a). The impugned order dated 19.04.2024 passed by the Chief Medical Officer, Azamgarh is set aside.

(b). The matter stands remitted back to pass fresh order strictly in accordance with law within a period of three months from the date of presentation of the certified copy of the order.

13. Accordingly, the writ petition stands **disposed of**.

February 6, 2026

Ashu

(Vikas Budhwar,J.)