

State of U.P. and ors. Vs. Anand Kumar Mishra and ors.

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Court : Allahabad

Decided On : Aug-06-2009

Reported in : 2009(4)AWC4069

Judge : C.K. Prasad, C.J. and ;A.P. Sahi, J.

Appellant : State of U.P. and ors.

Respondent : Anand Kumar Mishra and ors.

Disposition : Appeal dismissed

Judgement :

C.K. Prasad, C.J. and A.P. Sahi, J.

1. Respondents - appellants, aggrieved by the order dated 4.9.2008 passed by a learned single Judge in Civil Misc. Writ Petition No. 44344 of 2006, have preferred this appeal under Rule 5 Chapter VIII of the High Court Rules.

2. Writ petitioners-respondents are employed in U.P. Police Radio Department. In the light of the recommendation of the Pay Commission followed by the report of the Equivalence Committee, their pay-scale has been revised but the benefit of the said pay-scale was given from the date of issuance of Government order dated 30.10.2004 and not from 1.1.1996 as given to other employees of the State Government. They filed Writ Petition No. 67340 of 2005 before this Court and by order dated 24.10.2005, the writ application was disposed of with a direction to the

appellants herein to take decision in accordance with law within stipulated period. In the light of the aforesaid direction of this Court, the State Government by its memo dated 11.5.2006, rejected their claim and held that they shall not be entitled to the revised pay-scale from 1.1.1996. While doing so, it was observed that the State Government had taken a policy decision to give the revised scale of pay from the date of the Government order. Writ petitioners-respondents challenged the aforesaid order, which has given rise to the impugned order.

3. The learned single Judge relying on an earlier decision of this Court dated 21.8.2008 passed in Writ Petition No. 5902 (S/S) of 2005, Ghanshyam Singh and Anr. v. State of U.P. and Ors. disposed of the writ application with a direction to take appropriate decision in the light of the aforesaid decision.

4. As the direction of the learned single Judge is founded on the reasoning of this Court in the case of Ghanshyam Singh (supra), we deem it expedient to reproduce the same, which reads as follows:

The revision of the pay-scale in pursuance to the report of the Pay Commission, followed by the report of the Equivalence Committee is done from the date noticed by the Equivalence Committee. A perusal of the order (Annexure-2) reveals that the revised pay-scale has been enforced from 1.1.1996. Once the Equivalence Committee in pursuance to the Pay Commission's report has decided the revision of the pay-scale from 1.1.1996, then the grant of revised pay-scale to the petitioners from the date of the issuance of the impugned order dated 30.10.2004 appears to be an arbitrary act on the part of the State Government. Right to livelihood is a fundamental right guaranteed under Article 21 of the Constitution of India. In case, the Pay Commission has revised the pay-scale and the same has been considered by the Equivalence Committee, then that should be implemented equally for all the employees from the specified date. The State Government has no right to revise the pay-scale from a different date that what has been recommended by the Equivalence Committee.

It has not been disputed that most of the employees of the Wireless Department have been given the revised pay-scale in pursuance to the report of the Equivalence Committee w.e.f. 1.1.1996. Accordingly, there appears to be

discriminatory treatment having been done against the petitioners while issuing the impugned order dated 30.10.2004. It was incumbent on the respondents to pay the revised pay-scale to the petitioners and other similarly situated persons from 1.1.1996. Virtually, the earlier circular dated 16.8.2001 (Annexure-2) seems to have been passed in conformity with law on the subject keeping in view the report of the Equivalence Committee. The State was not justified in deviating from the grant of revised pay-scale in pursuance to the circular dated 16.8.2001 (Annexure-2). In view of the above, the order dated 30.10.2004 seems to be an arbitrary act on the part of the State and does not survive.

5. Mr. Piyush Shukla appearing on behalf of the appellants submits that when the State Government decided not to grant the scale of pay with effect from 1.1.1996, the learned single Judge ought not to have interfered with the same. He points out that it is for the State Government to decide as to from which date the benefit of pay- scale shall be given to its employees and the impugned direction of the learned single Judge is in breach of the said policy, which is not permissible in law.

6. We do not find any substance in the submission of Mr. Shukla.

7. It is well settled that every State action has to be founded on valid reason. A State action which is unreasonable and arbitrary, strikes at the very root of Article 14 of the Constitution of India. Testing the decision of the State Government on the aforesaid anvil, we find that it is. absolutely arbitrary.

8. It is not in dispute that other employees of the State Government on the very same recommendation of the Pay Revision Committee and Equivalence Committee, have been given the benefit of revised pay- scale with effect from 1.1.1996. Simply because the decision in regard to these employees was taken later on, it will not give a right to the State Government to give them the scale of pay from the date the decision is taken. We do not find any justification for giving the benefit of the revised scale of pay to the employees from the date the decision was taken for extending such benefit and not to give it from 1.1.1996.

9. We are of the opinion that the consideration of the matter by the learned single Judge does not suffer from any error calling for interference in this appeal.

In the result, we do not find any merit in the appeal and it is dismissed accordingly.

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