

**(2008) 12 AHC CK 0052****Allahabad High Court****Case No:** None

Anand Kumar &amp; Others

APPELLANT

Vs

State of U.P.&amp; Others

RESPONDENT

**Date of Decision:** Dec. 3, 2008**Hon'ble Judges:** S.U.Khan, J**Final Decision:** Allowed**Judgement**

S.U. Khan, J.

Heard learned counsel for the parties.

Through Government Order dated 02.12.2000 (Annexure3 to the writ petition), provision of grant of timescale, selection grade and increments was made. However, it was provided that it would be applicable only to those employees, who had been regularised. There is not dispute that all the petitioners in these writ petitions had been regularised before 02.12.2000. Question is as to whether the period of service of each petitioner prior to the date of regularisation is to be counted for calculating the entitlement to the grant of selection grade, time scale and increments or not? Learned standing counsel has vehemently argued that as in the said G.O., the emphasis is on regularised employees, hence length of service for the purpose of availing the benefit under the said G.O. should be counted for the date of regularisation. Obviously, learned counsel for the petitioners has argued that this is not the intention of the said G.O. and the only restriction is of regularisation, however after regularisation previous service is also to be counted.

In this regard as Annexure5 to the writ petition a judgment of Supreme Court passed in Civil Appeal No.57405741 of 1997, State of Haryana & others Vs. Ravinder Kumar and others has been cited. In the said judgment, it has been held that if particular G.O. grants benefit of timescale, increment etc. to those employees, who were initially engaged on workcharge basis and later on they were regularised, then period rendered by them before regularisation should be considered. It may be

mentioned that in the said case, learned counsel for the State had conceded that the period which the employees had rendered on workcharge basis was to be counted for the purpose of increment as well as calculating the service for the purpose of pension. In view of that statement, the Supreme Court held that "We therefore see no justification in not counting their period for the purpose of giving additional increment on completion of 10, 18 & 20 years of service for getting higherscale as per the government servant, which obviously are intended to avoid stagnation in a particular grade."

Annexure6 is copy of a judgment of Lucknow Bench of this Court delivered on 05.06.2007 in Writ Petition No.4489(SS) of 2002, Hansa Dutt Bahuguna and others Vs. State of U.P. and another. In the said judgment, the aforesaid judgment of the Supreme Court has been applied to similarly situate workcharge regularised employees of P.W.D. as petitioners.

Accordingly, all the writ petitions are allowed.

It is directed that the benefit of the G.O. dated 02.12.2000 shall be granted to the petitioners taking into consideration their services before the date of regularisation also. It is needless to add that each petitioner shall be entitled to the benefits with effect from the date on which he becomes entitled in view of above G.O. with all consequential benefits. Arrears payable shall be paid within nine months.