

Dr. Dhireshwar Chaturvedi and Others Vs Chief Secretary, Government of U.P. and Others

Court: Allahabad High Court

Date of Decision: Dec. 15, 2009

Citation: (2010) 2 AWC 1776

Hon'ble Judges: Ashok Srivastava, J; Amitava Lala, J

Bench: Division Bench

Judgement

Amitava Lala, J.

Initially, this writ petition was placed before the Stamp Reporter of the Court who reported deficiency of stamps by Rs.

400 vide his report dated 14.9.2006, upon which the Taxing Officer, vide his order dated 25.9.2006 opined that since every petitioner of this writ

petition has separate and independent cause of action, hence, a single set of court-fee is not sufficient, therefore, the petitioners have to make the

deficiency good. Thereafter, learned Counsel for the petitioners filed an application being dated 4.10.2006 for quashing the aforesaid report of the

Stamp Reporter and the order of the Taxing Officer.

2. Learned Counsel appearing for respective parties have been heard on the preliminary question with regard to deficiency in the court-fee. This is

a joint writ petition filed by 5 petitioners for the following reliefs:

(i) Placement of the petitioners in proper pay scale and in the higher pay scale for each one of them have worked for more than 5 and 12 years;

(ii) To treat the petitioners equivalent to the Medical Officers in P.M.S. and make them entitled to all those facilities and conditions of service which

are available to Medical Officers in P.M.S.;

(iii) To make the Samta Samiti recommendations effective from 1.1.1986 as had been done in the case of other services in the State of U.P.;

(iv) To quash the order by which 1978 G.O. had been superseded by the State Government;

(v) To place the petitioners in the proper pay scale from the date of their appointment and not from the date of the enforcement of Samta Samiti

Reports, i.e., from 1994;

(vi) To issue any other writ, direction or order or grant such other and further reliefs as may be deemed fit and proper in the circumstances of the

case; and

(vii) To order for costs of the petition to the petitioners.

3. Learned Counsel appearing for the petitioners contended before this Court that the joint writ petition filed by 5 petitioners for the reliefs quoted

above is fully maintainable as several writ petitioners can maintain a joint writ petition even if the dates of appointments, promotions etc. are

different and when the joint writ petition is maintainable then only one set of court-fee is payable. He further contended that where the cause of

action is common or even different but if the question involved is a question of law, the joint writ petition is maintainable. He also contended that

the cause of action for all the petitioners in this writ petition is one and the same, i.e., their entitlement to get the revised pay scale as per the

recommendations of Samta Samiti, which is the main question required to be adjudicated by this Court. Therefore, according to him, joint writ

petition is fully maintainable on payment of single set of court-fee and the report of Stamp Reporter as well as the order of Taxing Officer are liable

to be quashed. In support of his submissions, learned Counsel appearing for the petitioners placed strong reliance on the judgment of Apex Court

in, A.N. Pathak and Others Vs. Secretary to the Government, Ministry of Defence and Another, where the joint petition was held maintainable by

the Supreme Court even if the dates of appointments and promotion etc. were different saying that there was nothing to prevent the Court from

modulating the relief and giving directions to the respondents to reconsider the offending lists with reference to each of the petitioners.

4. According to learned Counsel appearing for the respondents, this writ petition cannot be entertained on payment of single set of court-fee, as

each of the petitioners has separate and independent cause of action, consequently, the application and the writ petition both are liable to be

dismissed. In support of his submissions, he placed reliance on the judgment of Apex Court in Mota Singh and Others Vs. State of Haryana and

Others, where each petitioner had his own cause of action arising out of the liability to pay tax individually and Supreme Court held that the petition

of each one would be a separate and independent petition and each such person would be liable to pay legally payable court-fee.

5. We have gone through a Full Bench judgment of this High Court in Umesh Chand Vinod Kumar and Others Vs. Krishi Utpadan Mandi Samiti

and Another, wherein it has been held that similar writ petition under Article 226 of the Constitution by more than one petitioner, not connected

with each other as partners or any other legally subsisting jural relationship is maintainable where the right to relief arises from the same act or

transaction and there is a common question of law or fact or where though the right of claim does not arise from the same act or transaction, the

petitioners are jointly interested in the cause or causes of action. If such judgment is read with Mota Singh and Ors. (supra) it will be seen that

single writ petition can be filed but each one is liable to pay independent court-fee to regularise the maintainability of such writ petition. In A.N.

Pathak and Ors. (supra) similar situation arose with regard to maintainability of the joint writ petition but there was no question of payment of

court-fee nor was such question which has been considered in Mota Singh and Ors. (supra).

6. Therefore, in totality, we are of the considered view that instant writ petition can be maintainable provided the individual court-fees are paid by

the petitioners within a period of one week from the date of this order. Subject to payment of individual court-fees, the defect will be cured by the

department and the writ petition will be placed before the appropriate Bench for the purpose of hearing on merits. Contra, the writ petition will be

treated to be dismissed, however, without imposing cost.

7. The application dated 4.10.2006 is disposed of, however, without any order as to cost.

Ashok Srivastava, J.

I agree.