

**(2011) 11 AHC CK 0368**

**Allahabad High Court**

**Case No:** Service Single No. 7972 of 2011

Ram Gopal

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision:** Nov. 3, 2011

**Hon'ble Judges:** Devendra Kumar Arora, J

**Bench:** Single Bench

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### **Judgement**

Devendra Kumar Arora, J.

By means of present writ petition, the Petitioner is challenging the condition imposed by the Chief Conservator of Forest, Administrative, Lucknow dated 23.06.2011 and the Circular dated 24.06.2011, directing the sub-ordinate authority to constitute a committee for regularization of employees, who are being paid minimum of the pay-scale as well as are being paid minimum pay-scale on the basis of Hon. Court's order on the ground that State Government while creating the post of 2022, does not provide such condition.

2. Submission of learned Counsel for the Petitioner is that the present controversy is squarely covered by the judgment and order passed in bunch of writ petitions, leading Writ Petition No. 3841 (S/S) of 2011, Mahesh Prasad Awasthi and Ors. v. State of U.P. and Ors. which it has been observed that conditions imposed by the Chief Conservator Forest were to generate the litigation as the same appears prima facie not sustainable in the eyes of law for the reason that same are neither mentioned in the Rules nor in the Government order in question. The relevant portion of judgment and order passed in Writ Petition No. 3841 (S/S) of 2011 is as under:

After hearing both the parties and on perusal of record, it appears that when the Government has taken a decision to regularize the daily wagers vide order dated 08.09.2010 and 23.06.2011, then no condition was laid down except that the persons who are working prior to cut off date i.e. 29.06.1991 were to be eligible for regularization. In other words, there was no condition pertaining to the minimum

wages. Moreover, seeking of justice in the court of law is not an offence. If the matter is subjudice or decided, the person cannot exclude from the consideration zone unless court has passed an order to this effect. Had there been action taken by the executive in accordance to law, perhaps the pendency in the court might have been reduced substantially. But it appears that the said conditions imposed by the Chief Conservator of Forest were imposed to generate the litigation as the same appears prima-facie not sustainable in the eye of law for the reason that same are neither mentioned in the Rules nor in the Government Order in question.

3. I have considered the submissions of learned Counsel for the parties and gone through the record as well as judgment and order passed in bunch of writ petitions, leading Writ Petition No. 3841 (S/S) of 2011.

4. On examination, I find that the present controversy is squarely covered by the judgment and order passed in Writ Petition No. 3841 (S/S) of 2011, Mahesh Prasad Awasthi and Ors. v. State of U.P. and Ors. In view of above, the present writ petition is disposed of finally in terms of judgment and order passed in Writ Petition No. 3841 (S/S) of 2011, Mahesh Prasad Awasthi and Ors. v. State of U.P. and Ors.

5. The Petitioner is given liberty to make a representation before the Principal Secretary, Department of Forest, Government of U.P. within a period of three weeks from the date of receipt of a certified copy of this order. If such representation is made then the Principal Secretary, Department of Forest, Government of U.P. shall decide the same in accordance with law as well as in the light of observations made in judgment and order passed in Writ Petition No. 3841 (S/S) of 2011, Mahesh Prasad Awasthi and Ors. v. State of U.P. and Ors. by means of speaking and reasoned order within a period of next four weeks and communicate the decision to the Petitioner.

6. With the aforesaid observations and directions, this writ petition is disposed of finally.