

WPPIL No.200/16

Hon'ble Rajiv Sharma, J.

Hon'ble Lok Pal Singh, J.

Mr. M.C. Pant, Advocate, for the petitioners.

Mr. S.S. Chauhan, D.A.G., for the State.

Mr. Vipul Sharma, Advocate, for the respondent no.4.

Petitioners' association is registered under the Societies Registration Act, 1860. The Society has been constituted for the welfare of Advocates' Clerks who are registered and working with the respective advocates in the High Court as well as in the Subordinate Courts including the Tribunals.

Petitioners have sought suitable directions to the respondents for improving their conditions of service including security of tenure and timely monetary help in the case of death or bodily injuries to them.

Petitioners do not have any access to the medical assistance. The salaries paid to them are meager. The State Government, till date, has not framed any legislation to redress their grievances.

The Hon'ble Apex Court in Writ Petition No.430 of 2003 (*Akhil Bhartiya Adhivakta Clerks Association & others v. U.O.I*) has made the observation that the Government may consider their case sympathetically.

In view of the observations made by the Hon'ble Supreme Court in Writ Petition No.430 of 2003, the Deputy Legal Advisor to the Ministry of Law & Justice, Govt. of India, Department of Legal Affairs has sent a communication to the Chief Secretary, Govt. of Uttarakhand on 13.5.2015. The text of the letter reads as under: -

- a. "Registered Clerks of Advocates are part and parcel in administration of Justice.
- b. Their services are neither protected under the Minimum Wages Act, nor there is any law laying service conditions, qualifications, welfare and discipline.

c. Also referred Hon'ble Supreme Court's observation in Writ No. 430 of 2003 (Akhil Bhartiya Adhivakta Clerks' Association & others vs. Union of India) that the Government may consider their case sympathetically.

2. The State Government, through above mentioned D.O. letters were requested to intimate whether any law has been enacted for the welfare of the Advocates Clerks and to provide a copy thereof.

3. It is pertinent to note here that the State Government of Andhra Pradesh, Tamil Nadu, Kerala, Odisha and Karnataka have enacted their respective Advocates' Clerks Welfare Funds Acts under entry nos.23, 24 and 26 of the Concurrent List of the Seventh Schedule of the Constitution of India, which reads as under:-

Entry No.23. Social security and social insurance, employment and unemployment.

Entry No.24. Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.

Entry No.26. Legal, medical and other professions.

4. The Clerks of Advocates are part and parcel in the administration of justice. Though, the major stakeholders in the judicial procedure are Judges and Advocates, without the efforts and contribution of paralegals like the clerks who assist the advocates in filing the case, documents, justice delivery system cannot be function. There are no central statutory welfare measures for advocates' clerks. You are therefore, requested to explore the feasibility and enact a law for the welfare of the Advocates Clerks, as enacted by other State Governments mentioned in para 3 above.

5. This issued with the approval of Hon'ble Minister of Law and Justice.”

In sequel to letter dated 13.5.2015, the Additional Secretary (Law), on 26.6.2015, has asked the advocates' clerks to make their representations.

Petitioners made the representation on 31.7.2015, in sequel to the letter dated 26.6.2015, but till date, no steps have been taken to redress the grievances of petitioners, in compliance of the directions issued by the Hon'ble Supreme Court in the judgment cited hereinabove.

Petitioners have also placed on record the progressive legislations made by the State of Andhra Pradesh called The Andhra

Pradesh Advocates' Clerks Welfare Fund (Amendment) Act, 1994, The Tamil Nadu Advocates' Clerks Welfare Fund Act, 1999, The Kerala Advocates' Clerks Welfare Fund Act, 2003 and The Orissa Advocates' Clerks Welfare Fund Act, 2008. These Acts have provided for various welfare measures for the advocates' clerks including Group Life Insurance and other funds. The State of Uttarakhand can take a cue from these Legislations.

We are also of the considered view that the State Government should also make a Contingency Fund to provide *ex gratia* payment to the family members of the advocates' clerks in the case of untimely death or fatal bodily injury.

The advocates' clerks are the integral part of the justice delivery system. Most of the advocates' clerks are registered. It is the need of the hour that effective steps should be taken by the State Government to ameliorate their grievances.

Accordingly, we dispose of the petition by recommending/suggesting the State Government to frame suitable legislation in view of the observations made by Hon'ble Supreme Court in Writ Petition No.430 of 2003 (referred to in letter dated 13.5.2015) read in conjunction with letter dated 26.6.2015 for the benefit of advocates' clerks working in all the Courts of the State, including the Tribunals, within three months from today on the analogy of the enactments cited hereinabove.

All pending applications stand disposed of accordingly.

(Lok Pal Singh, J.) **(Rajiv Sharma, J.)**

12.06.2018