

Court No. - 6

Case :- WRIT - C No. - 1271 of 2023

Petitioner :- Dr.Shweta Yadav

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Narendra Mohan

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Manju Rani Chauhan,J.

As per office report dated 20.02.2023, service of notice upon respondent no.3 is held sufficient.

Heard Mr. Narendra Mohan, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

The writ petition has been filed by the petitioner with the following prayer :-

*"I. Issue a writ, order or direction in the nature of **Certiorari** quashing the order dated 08.11.2021 (annexure no.6 to the writ petition), order dated 13.09.2022 passed by Additional District Judge Court No.7 Kanpur Region, Kanpur, order dated 12.12.2022 passed by respondent no.2 (annexure no.12 to this writ petition) and recovery notice dated 24.12.2022 (annexure no..18 to the writ petition).*

*II. Issue a writ, order or direction in the nature of **Mandamus** commanding/directing the respondents not to recover the amount of Rs.2,70,500/- from the petitioner.*

....."

At the very outset, learned counsel for the petitioner submits that the *ex-parte* order has been passed by the concerned court without taking into consideration the fact that respondent no.3 has worked only for a period of 22 days. He further submits that the order dated 08.11.2021 has been passed without giving opportunity of hearing to the petitioner against which a recall application has been moved, which has been rejected in a mechanical manner, only on the ground that recovery certificate has already been issued. He further submits that the aforesaid

amounts to violation of principles of natural justice, therefore an opportunity may be given to the petitioner to move a fresh recall application and a direction may be issued to the authorities concerned to decide the same after considering the case of the petitioner.

Learned Standing Counsel has no objection to the same.

No useful purpose would be served by keeping this petition pending as despite notice which has been served upon respondent no.3, she has not appeared before this Court.

In view of the above and without expressing any opinion on the merits of the case, this writ petition is finally **disposed off** with a direction that the petitioner shall move a fresh recall application, ventilating all his grievances and shall also deposit a sum of Rs.25,000/-, before the respondent no.2-Additional Labour Commissioner, U.P., Kanpur Region, Kanpur, Sarvoday Nagar, Kanpur, within two weeks from today along with a certified copy of this order. In case, such an application is being moved, the respondent no.2 shall make all endeavours to consider and decide the same, in accordance with law, by means of a reasoned and speaking order, preferably within a period of **one month**, from the date of production of certified copy of this order, if there is no legal impediment.

Till final order is passed in the recall application, no coercive action shall be taken against the petitioner.

Needless to say that in case the aforesaid application is not moved alongwith the deposition of the said amount, it is open to the authorities concerned to proceed in accordance with law. In case the aforesaid amount is deposited, the same shall be kept in some interest bearing scheme.

Order Date :- 22.11.2023

Kalp Nath Singh