

Court No. - 36

Case :- WRIT - A No. - 13324 of 2023

Petitioner :- Ram Vishal

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Deepak Singh Yadav, Sheo Ram Singh

Counsel for Respondent :- CSC, Pradeep Kumar Sinha, Shivendra Singh Bhadauria

Hon'ble Manjive Shukla, J.

1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondent No. 1 as well as Sri Shivendra Singh Bhadauria, learned counsel appearing for the Respondents No. 2, 3 and 4.

2. This court after hearing the matter passed an order on 9.10.2023 which is extracted as under:

"1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondent No. 1 as well as Sri Shivendra Singh Bhadauria, learned counsel appearing for the Respondents No. 2, 3 & 4.

2. Petitioner was appointed on the post of Assistant Teacher on 30.5.2015 and he continued on the said post till 25.7.2017, thereafter petitioner was reverted to the post of Shiksha Mitra.

3. Grievance of the petitioner is that the petitioner is entitled for a sum of Rs. 71,115/- pursuant to the pay revision in terms of the recommendations of the 7th Pay Commission. Arrear of salary admissible to the petitioner was calculated but due to mistake of the offices headed by the District Basic Education Officer, Fatehpur and Finance and Accounts Officer (Basic Education), Fatehpur, the said amount has been transferred in the account of Respondent No. 6.

4. Learned counsel appearing for the petitioner has submitted that since there is no dispute in respect of the petitioner's entitlement for the aforesaid amount of Rs. 71,115/-, therefore, the same may be paid to him and so far as the amount which has been transferred in the account of Respondent No. 6 is concerned, the department may recover the said amount from the Respondent No. 6.

5. This court after hearing the matter passed an order on 21.8.2023 in the following terms:-

"1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondent No.1, Sri Shivendra Singh, learned

counsel appearing for the Respondents No.2, 3 & 4 as well as Sri P.K. Sinha, learned counsel appearing for the Respondent No.5.

2. Learned counsel appearing for the petitioner has submitted that petitioner is entitled for payment of arrear of salary pursuant to revision of his pay as per recommendations of 7th Pay Commission. Learned counsel for the petitioner has further submitted that an amount of Rs.71,155/- was calculated as arrear of salary payable to the petitioner pursuant to recommendations of 7th Pay Commission but due to mistake the said amount has been credited in the account of Respondent No.6. Learned counsel for the petitioner has argued that since 29.10.2021 petitioner is running from pillar to post but till date arrear of salary admissible to him has not been paid.

3. Learned counsel appearing for the petitioner has also invited attention of this court towards a letter dated 29.10.2021 written by Finance and Accounts Officer, Basic Education, District Fatehpur, wherein the aforesaid mistake has been admitted.

4. Sri Shivendra Singh, learned counsel appearing for the Respondents No.2, 3 and 4 is not in a position to dispute the claim of the petitioner and he prays for only a week's time to take instructions from the Respondents No.2, 3 and 4.

5. Time prayed for is granted.

6. List this matter on 30.8.2023 as fresh.

7. It is expected that by the next date Respondents No.2, 3 and 4 will ensure that arrear of salary admissible to the petitioner is paid."

6. Today, Sri Shivendra Singh Bhadauria, learned counsel appearing for the Respondents No. 2, 3 & 4 has produced before this court the instructions provided by the District Basic Education Officer, Fatehpur vide his letter dated 29.8.2023 wherein it has been stated that the Finance and Accounts Officer (Basic Education), Fatehpur has said that the amount in question has already been credited in saving bank account of another person, therefore, unless the said amount is recovered, it is not possible for him to pay Rs. 71,115/- to the petitioner.

7. I have considered the instructions provided by Sri Shivendra Singh Bhadauria, learned counsel appearing for the Respondent Nos. 2,3 & 4.

8. Once the entitlement of the petitioner in respect of the amount of Rs. 71,115/-, pursuant to the pay revision in terms of 7th Pay Commission is admitted to the respondents, there cannot be any occasion not to pay the said amount to the petitioner. If due to the mistake of the offices of the Respondents No. 2 & 3 the said amount has been transferred in the account of Respondent No. 6, for the said mistake, petitioner cannot be held responsible and he cannot be penalized by not paying the said amount till such amount is recovered from the Respondent No. 6.

9. I find that once due to mistake committed by the respondents amount has been credited in the account of the Respondent No. 6, then they may proceed

to recover the said amount but till recovery of the said amount, petitioner cannot be asked to wait for payment of amount admissible to him.

10. In the aforesaid circumstances, it is directed that the Respondents No. 2 & 3 shall pay the amount of Rs. 71,115/- within a week from today, failing which Respondent No. 3 shall appear before this court on the next date.

11. List this matter on 18.10.2023, as fresh."

3. Today, Sri Shivendra Singh Bhadauriya has received instructions from District Basic Education Officer, Fatehpur vide letter dated 17.10.2023 wherein it has been stated that amount of Rs. 71,155/- has been paid to the petitioner.

4. Learned counsel appearing for the petitioner has also submitted that petitioner has received the aforesaid amount.

5. In view of the aforesaid reasons, this writ petition is ***disposed of***.

Order Date :- 18.10.2023

A. Mandhani