

Court No. - 36

Case :- WRIT - A No. - 14542 of 2023

Petitioner :- Sanjeev Kumar Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Mohd. Naushad Siddiqui, Arvind Srivastava

Counsel for Respondent :- C.S.C., Arun Kumar

Hon'ble Manjive Shukla, J.

1. Heard Sri Arvind Srivastava, learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondents No. 1 and 2 as well as Sri Arun Kumar, learned counsel appearing for the Respondents No. 3 and 4.

2. This court after hearing parties counsels passed an order on 27.10.2023 which is extracted as under:

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

2. Petitioner through this writ petition has challenged the order dated 4.8.2023 passed by the District Basic Education Officer, Kanpur Nagar, whereby he has rejected the case of the petitioner for including him under Old Pension Scheme and to deduct the contribution towards GPF from his salary.

*3. Learned counsel appearing for the petitioner has further submitted that petitioner was initially appointed on 30.8.2001 as untrained Assistant Teacher on compassionate ground on a fixed pay and later on, he has been given regular appointment as Assistant Teacher. Learned counsel appearing for the petitioner has further submitted that petitioner is entitled for deduction of amount from his salary towards GPF and is also entitled for including him under Old Pension Scheme in view of the judgment rendered by this court in **Writ-A No. 22142 of 2011 (Mahesh Prasad and others Vs. State of U.P. and others)**.*

*4. Petitioner initially filed a writ petition which was finally disposed of with a direction to the District Basic Education Officer to consider the case of the petitioner in the light of the judgment rendered by this court in the case of **Mahesh Prasad (Supra)** but the District Basic Education Officer rejected case of the petitioner only by saying that the Special Leave Petition is pending against the judgment rendered by this court in the case of **Mahesh Prasad (Supra)**. The rejection order was again put to challenge and this court set aside the decision and remanded the matter to the District Basic Education Officer, Kanpur Nagar for passing fresh order but again the*

*District Basic Education Officer, Kanpur Nagar has passed the same order without considering the case of the petitioner in the light of the judgment rendered by this court in the case of **Mahesh Prasad (Supra)**.*

*5. Prima-facie this court find that petitioner's case is covered by the judgment rendered by this court in the case of **Mahesh Prasad (Supra)**.*

*6. Let learned counsel appearing for the Respondents No. 3 & 4 take categorical instructions from the District Basic Education Officer, Kanpur Nagar on the point as to when the issue of the petitioner has already been settled by this court then why again and again order is being passed by the authority without considering the judgment rendered by this court in the case of **Mahesh Prasad (Supra)**.*

7. List this matter on 8.11.2023, as fresh."

3. Today, Sri Arun Kumar, learned counsel appearing for the Respondents No. 3 & 4 has produced before this court the order passed by the District Basic Education Officer, Kanpur Nagar on 18.11.2023 whereby direction has been issued for making deduction towards G.P.F. from the salary of the petitioner and the said direction has been made subject to final outcome of the S.L.P. (C) No. 022354 of 2019. Order dated 18.11.2023 is taken on record.

4. Learned counsel appearing for the petitioner has submitted that this writ petition may be disposed of in terms of the aforesaid order dated 18.11.2023.

5. In view of the aforesaid submissions advanced by the learned counsels appearing for the parties, this writ petition is **disposed of** in terms of order dated 18.11.2023 passed by the District Basic Education Officer, Kanpur Nagar.

Order Date :- 20.11.2023

A. Mandhani