

Court No. - 35

Case :- WRIT - A No. - 15984 of 2023

Petitioner :- Karan Singh

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

Counsel for Petitioner :- Suchita Tripathi, Naresh Chandra Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Rejoinder affidavit filed today is taken on record.

Heard Sri Naresh Chandra Tripathi, learned counsel for the petitioner and Sri Saurabh, learned Standing Counsel, who appears for Respondents 1 to 5.

In view of the order, which is being proposed to be passed today, notices are not being issued.

The writ petitioner had earlier filed Writ A No. 2945 of 2023 seeking for refixation of pension and notional fixation of pay in the said writ petition on 21.03.2023, the following orders were passed:

"Heard Sri Naresh Chandra Tripathi, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

The petitioner has questioned the order passed by the District Inspector of Schools whereby the claim of the petitioner for refixation of his pension after notional fixation of pay with regard to which he had already represented the matter before the competent authority who happens to be the Regional Director of Education on 3.9.2008. He has relied upon certain Government orders in this above regard. He submits therefore that the matter ought to have been examined by the Deputy Director of Education (Secondary) in view of Clause 1 of the Government Order dated 19.12.2000 and submits that in the above regard previously an order was passed by the Deputy Director of Education dated 17.7.2018

against which objection was raised by the petitioner.

On a pointed query being made to learned Standing Counsel as to under what provision of law, the District Inspector of Schools has passed the order, the learned Standing Counsel very fairly conceded that the order ought to have been passed by the competent authority namely the Deputy Director of Education in the light of the provisions contained under the Government order dated 19.12.2000.

In such above view of the matter, therefore the order passed by the District Inspector of Schools dated 22.8.2022 is hereby quashed and further he is directed to forward all the documents related to the petitioner to the Deputy Director of Education to pass order in the light of the provisions contained under the Government Order and dealing with the objections raised by the petitioner in his representation made to the Director of Education on 3.9.2018. The Deputy Director shall be passing order within maximum period of three months from the date of production of certified copy of this order after giving full opportunity of hearing to the parties.

Accordingly, the writ petition is allowed as indicated above."

Post passing of the said order, the Regional Joint Director of Education, XII Region, Moradabad has proceeded to negate the claim of the writ petitioner on 30.08.2023 while relying upon the Government orders dated 20.07.2001.

Questioning the said order, the writ petitioner has been filed the present writ petition.

The Court had entertained the writ petition on 10.10.2023 while passing the following orders:

"Supplementary affidavit filed today is taken on record.

Since, a writ of certiorari is being sought for quashing of the order daed 30.06.2023, passed by the Regional Joint Director of Education (Madhyamik), XIIth Region, Moradabad, District - Moradabad denying to grant revision of the pension, pursuant to the Government Order issued in the year, 2016, let a response be filed by the respondents.

Sri Saurabh Trivedi, learned Standing appears for respondent nos.1 to 5.

Issue notice to the sixth respondent.

Steps to be taken by tomorrow i.e. 11.10.2023 by both modes.

All the respondents shall file their counter affidavit by 26.10.2023.

Rejoinder affidavit be filed by 30.10.2023.

Put up this case on 31.10.2023, as fresh.

Affidavit of service be filed before the next date fixed."

Pursuant to the issuance of notice, the writ petitioner has taken steps and the office report dated 30.10.2023 shows that the delivery upon sixth respondent is confirmed.

A counter affidavit has been filed on behalf of the respondent Nos. 1 to 5 sworn by Associate District Inspector of Schools, Bijnor dated 26.10.2023 to which a rejoinder affidavit has been filed.

Shri Saurabh, learned Standing Counsel in his usual fairness has apprised the Court that the Government order dated 20.07.2001 which was made the basis of negating the claim of the writ petitioner for refixation of pension and notional pay has already been set aside in Writ A No. 31958 of 2005 (Ram Lakhan Ram and others Vs. State of U.P. and others) decided on 16.12.2019. According to his knowledge, the said order still holding the field. He submits that the matter be remitted back to the second respondent, Regional Joint Director of Education, XII Region, Moradabad to take a fresh decision in that regard.

Considering the submission of the rival parties as well as stand taken by them including the statment made by Shri Saurabh, learned Standing Counsel the order dated 30.06.2023 is set aside. Matter stands remitted back to the second respondent,

Regional Joint Director of Education, XII Region, Moradabad
to pass a fresh order within a period of three months from the
date of presentation of the certified copy of the order.

With the aforesaid observation, the writ petition is **disposed off**.

Order Date :- 22.11.2023

A. Prajapati