

Court No. - 36

Case :- WRIT - A No. - 15835 of 2023

Petitioner :- Shailendra Pratap Singh

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

Counsel for Petitioner :- Avdhesh Narayan Tiwari, Parvez Alam

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

Hon'ble Manjive Shukla, J.

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

2. Petitioner through this writ petition has prayed for a direction from this court thereby commanding the respondents to pay the arrears of salary to the petitioner pertaining to the period of 17.10.2020 to 14.7.2022 and to treat the petitioner's date of appointment, for all practical purposes, to be 17.10.2020.

3. This court, after hearing the parties' counsels, passed a detailed order on 21.9.2023, which is extracted as under:-

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

2. Petitioner was initially appointed on the post of Assistant Teacher vide appointment order dated 16.10.2020 issued by the District Basic Education Officer, Kanpur Nagar. Later on services of the petitioner were terminated treating initial appointment of the petitioner as void-ab-initio vide order dated 18.06.2021 passed by the District Basic Education Officer, Kanpur Nagar.

3. Petitioner challenged the order dated 18.06.2021 by filing Writ-A No. 8308 of 2021 which was finally allowed by this court vide judgment and order dated 28.09.2021, whereby the order terminating the services of the petitioner was quashed and direction was issued to reinstate the petitioner in service and pay him salary.

4. In compliance of the order dated 28.09.2021 passed in Writ-A No. 8308 of 2021 the District Basic Education Officer, Kanpur Nagar has passed the order on 13.07.2022, whereby petitioner was permitted to join on his post.

5. Learned counsel appearing for the petitioner has submitted that the District Basic Education Officer, Kanpur Nagar is treating the order dated 13.07.2022, whereby the petitioner was permitted to join on his post in continuation of his initial appointment as fresh appointment.

6. Learned counsel appearing for the petitioner has argued that since the District Basic Education Officer, Kanpur Nagar is treating petitioner to have been appointed on 13.07.2022, various pecuniary benefits have not been paid to the petitioner till date.

7. Prima facie, I find force in the arguments advanced by the learned counsel appearing for the petitioner.

8. Let this matter be listed on 09.10.2023, as fresh to enable learned counsel appearing for the Respondents No. 3 & 4 to take written instructions from the District Basic Education Officer, Kanpur Nagar. "

4. Later on, this matter was again heard by this court on 9.10.2023 and following order was passed:-

"1. Though in compliance of this court's order dated 21.09.2023, District Basic Education Officer, Kanpur Nagar has provided instructions to Sri Arun Kumar, learned counsel appearing for the Respondents No. 3 and 4 but from perusal of the said instructions, it does not come out as to whether respondents are treating the petitioner's date of appointment as 17.10.2020 or 13.07.2022.

2. Sri Arun Kumar prays for three days' further time to take specific instructions in this matter.

3. As prayed by Sri Arun Kumar, put up this case on 19.10.2023 as fresh.

4. At this stage, learned counsel appearing for the petitioner has also submitted that vide order dated 28.09.2021 passed by this court in Writ-A No. 8308 of 2021, order dated 18.06.2021 whereby petitioner's services were terminated, has been quashed and direction has been issued for payment of salary in accordance with law but till date, petitioner has not been paid salary for the period from 18.06.2021 till 15.07.2022.

5. Sri Arun Kumar shall also seek instructions in respect of the fact that as to why till date, salary of the petitioner for the aforesaid period has not been paid. "

5. Learned counsel appearing for the petitioner has submitted that in compliance of the aforesaid orders passed by this court, petitioner has been paid his entire arrears of salary as well as his date of appointment has also been treated as 17.10.2020. Learned counsel appearing for the petitioner has further submitted that a little grievance of the petitioner still remains to be redressed by the respondents as petitioner has not been granted annual increments for the year 2020-21 and 2021-22.

6. Sri Arun Kumar, learned counsel appearing for the Respondents No.3 and 4 has very fairly submitted that ends of justice would be served if petitioner is permitted to file a fresh representation regarding his remaining grievance before the District Basic Education Officer, Kanpur Nagar and once the representation is filed, his grievance can be redressed by the District Basic Education Officer, Kanpur Nagar.

7. In view of the aforesaid submissions advanced by the learned counsels appearing for the parties, this writ petition is finally disposed of with liberty to the petitioner to file a fresh representation before the District Basic Education Officer, Kanpur Nagar raising his grievance, if any, within a period of fifteen days from today and if such representation is filed, the District Basic Education Officer, Kanpur Nagar is directed to consider and decide the said representation by passing speaking and reasoned order within two months thereafter.

Order Date :- 31.10.2023

Salim