

Court No. - 35

Case :- WRIT - A No. - 16011 of 2023

Petitioner :- Kaptan Singh

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

Counsel for Petitioner :- Surendra Kumar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

1. Heard Sri Rudresh Kumar Pandey (AOR A/R 1346/2012) holding brief of Sri Surendra Kumar Mishra, learned counsel for the writ petitioner and Sri Gaya Prasad Singh, learned Standing Counsel who appears for respondents No. 1 to 3.

2. In view of the order which is being proposed to be passed today, notice is not being issued to the fourth respondent.

3. The case of the writ petitioner is that he is a handicapped person and also was appointed as class IV employee on 01.06.1989 and he was promoted as class III employee on 17.02.2007. However, according to the writ petitioner he was not paid salary from September, 2020. It is further the case of the writ petitioner that he was suspended on 22.11.2020 and approval whereof was granted by the District Inspector of Schools, Hathras on 07.01.2021 alleging non-payment of salary, the writ petitioner claims to have preferred Writ Petition No. 13806 of 2021 (Kaptan Singh Vs. State of U.P.) which came to be disposed of on 07.10.2021 while passing the following orders.-

"The present writ petition has been filed alleging that despite the entitlement of the petitioner, he has not been paid the salary with effect from September 2020.

Counsel for the petitioner has drawn my attention to the letter written by the District Inspector of Schools to the Principal of the college, Respondent No. 4 on 4.11.2020 to take immediate steps so that salary of the petitioner can be paid, however, despite the said order, papers are not being forwarded by the Respondent No. 4 and thus, the petitioner is being deprived of the salary.

In view of the fact that the Respondent No. 4 has to send the paper, there are ample powers with the District Inspector of Schools to ensure compliance of its directions in the form of single operation also.

In view of the said, the present writ petition is disposed off giving liberty to the petitioner to approach the Respondent No. 2, who shall pass orders in terms of the earlier order dated 4.11.2020 so as to ensure the petitioner's salary is paid in accordance with law within a period of two months from the

date of filing of a copy of this order before the Respondent No. 2.

Copy of the order downloaded from the official website of this Court shall be treated as certified copy of the order."

4. Thereafter, according to the writ petitioner on 25.10.2021 the District Inspector of Schools corresponded with the Principal of the institution in question.

5. Prayer in the present petition is for payment of arrears of salary for the month of September, 2020 and 1st November, 2020 to 23 November, 2020 as well as the subsistence allowance with effect from 2020 to 25.2.2021.

6. Sri Gaya Prasad Singh, learned Standing Counsel submits that the present writ petition insofar as it pertains to payment of salary for the period from September, 2020 is not maintainable as already the writ petitioner is possessed with an order passed in his favour on 07.10.2021, he submits that, in case, according to the writ petitioner he has not been paid subsistence allowance then he can approach the authorities.

7. I have heard the learned counsel for the parties and perused the record carefully.

8. Admittedly, there already exists an order dated 07.10.2021 passed in Writ A No. 13806 of 2021 (Kaptan Singh Vs. State of U.P.) with relation to disposal of the representation of the writ petitioner and there happens to be a communication of the District Inspector of Schools, Hathras to the Principal of the institution dated 25.10.2021 seeking inputs for payment of salary followed by another document dated 02.11.2021 under the signature of the District Inspector of Schools, Hathras. It is open for the writ petitioner to approach the District Inspector of Schools, Hathras, in case, salary has not been paid. However, so far as the payment of subsistence allowance is concerned the same is a continuous cause of action, in case, suspension has not been revoked. Thus, it is also open for the writ petitioner to approach the second respondent, District Inspector of Schools, Hathras raising his claim and this Court has no reason to belief that the claim of the writ petitioner will be considered with most expedition after hearing the writ petitioner and fourth respondent in this regard.

9. With the aforesaid observations, the writ petition stands disposed of.

Order Date :- 19.10.2023/Rajesh