

Court No. - 35

Case :- WRIT - A No. - 16155 of 2023

Petitioner :- Babu Lal Pal And 3 Others

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

Counsel for Petitioner :- Adarsh Singh, Indra Raj Singh

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Sri Adarsh Singh, learned counsel for the petitioners, who are 4 in number as well as Sri Awadhesh Kumar Mishra, the learned Standing Counsel, who appears for Respondents.

The case of the writ petitioner is that they are presently posted as Assistant Teachers in Trained Graduate Grade in Government Girls Inter College, Prayagraj. As per the writ petitioners, in pursuance of a certificate dated 14.09.2023 issued by the fourth respondent, Principal, Government Girls Inter College, Prayagraj, they are to superannuate on 31.03.2024 after attaining 60 years of age. In paragraph-4 of the writ petition, it has been asserted that the service conditions of the writ petitioner are regulated by the Rules by the name of Uttar Pradesh Subordinate Educational (Trained Graduate Grade) Service Rules, 1983, it is being contended that with respect to the matters not covered by these Rules or special orders, persons appointed to the service shall be governed by the Rules, Regulations and Orders applicable generally to government servants serving in connection with the affairs of the State. While further relying upon the Rule 56(a) of the Uttar Pradesh Fundamental Rules, which according to the writ petitioner came into effect w.e.f. 01.04.1942, the age of the retirement, according to him, has been enhanced to 62 years. He further seeks to rely on the provisions of Rule 29 of The Uttar Pradesh Basic Education (Teachers) Service Rules, 1981, whereby the age of retirement has been enhanced to 62 years. He also relies upon Regulation 21 of Chapter III of the U.P. Intermediate Education Act, 1921 so as to contend that as per the Regulation 21, the superannuation has been enhanced from 60 to 62 years. The writ petitioner principally pleads and argues that discrimination is meted to them, as barring their case, other incumbents, who are similarly situated or sailing on the same boat had been granted the benefit of 62 years.

Prayer in the present petition is for a direction to the first respondent, the Addl. Chief Secretary (Secondary Education), U.P.,

Lucknow to consider the grievance of the writ petitioner.

Sri Awadhesh Kumar Mishra, learned Standing Counsel submits that the issues which the writ petitioner is seeking to raise needs determination at the first instance by the first respondent and according to him, he does not propose to file any response to the writ petition, and the writ petitioner may represent his cause before the first respondent.

To such a submission, learned counsel for the writ petitioner has no objection and he gracefully accepts the same.

Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed off without seeking any response from the respondents granting liberty to the writ petitioner to approach the first respondent, Addl. Chief Secretary (Secondary Education), U.P., Lucknow along with a comprehensive representation accompanied with self-attested copy of the writ petition, who shall, on the receipt of the same, proceed to decide the claim of the writ petitioner within a period of three months from the date of production of certified copy of the order with an independent application of mind strictly in accordance with law.

Needless to point out that the writ petitioner is being decided without seeking any response from the respondents, and the order has been passed on the basis of the concession made by the learned Standing Counsel, thus passing of this order may not be construed to an expression that this Court has adjudicated the matter on merits, as the order has been passed in the peculiar facts and circumstances of the case and it may not be treated to be a precedent.

In case, the first respondent, is of the opinion that some other authority shall address the claim of the writ petitioner, then the papers be transmitted to the concerned authority.

With the aforesaid observations the writ petition stands **disposed off**.

Order Date :- 31.10.2023

N.S.Rathour