

Court No. - 35

Case :- WRIT - A No. - 16338 of 2023

Petitioner :- Devendra Kumar Sharma And Another

Respondent :- The State Of U.P. And 4 Others

Counsel for Petitioner :- Shivendu Ojha, Shatrughan Sonwal, Sr. Advocate

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Sri Shivendu Ojha, learned counsel for the petitioners, who are two in number and Sri Shailendra Singh, the learned Standing Counsel, who appears for Respondents 1 to 4.

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

The case of the writ petitioner is that the fifth respondent, C/M Mahanand Mission Harijan Vidyalaya (MMHV) Inter College is an institution recognized under the provisions of U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No.24 of 1971 are applicable.

As per the writ petitioners, who are two in number, after facing the regular selection conducted by the respondents were granted appointment as Class-IV employee on 30.06.1996 and they assumed the charge on 01.09.1996 and they promoted on the post of Assistant Clerk on 04.04.2008. An order is stated to have been passed by the fourth respondent, District Inspector of Schools, Ghaziabad, whereby without putting to the writ petitioner on hearing, their adjustment was sought to be cancelled.

Questioning the said order, the writ petitioner no.1 preferred Writ Petition No.51446 of 2010, as where as petitioner no.2 preferred **Writ-A No. 75716 of 2010**, which came to be dismissed by this Court on 05.03.2018, against which the writ petitioner no.1 preferred **Special Appeal No. 311 of 2018**, *Devendra Kumar Sharma Vs. State of U.P. and others*, which came to be allowed on 03.07.2019 setting aside the judgment of the learned Single Judge as well as the order of the District Inspector of Schools, restoring the appointment of the writ petitioner on Class-IV post w.e.f. 01.07.2002. In the similar fashion, the Special Appeal No. 310 of 2018 preferred by the petitioner no.2 came to be allowed on 03.07.2019. It is the further case of the writ petitioners that a **Special Leave Petition (Civil) Diary No(s). 21816 of 2020** (*State*

of *U.P. & Ors. Vs. Devendra Kumar Sharma & Ors.*) was preferred by the State of U.P., which came to be rejected on 22.01.2021 and a review application was also preferred by the State, which also came to be rejected on 09.11.2021. As per the writ petitioner, the order of the Special Appellate Bench attained finality.

Grievance of the petitioner is that now the writ petitioners are not being paid the arrears of salary, which even otherwise they are entitled to be paid and further dependent upon the same, revision of salary and other ancillary benefits are to be extended. Learned counsel for the writ petitioner has invited the attention of this Court towards paragraph-17 of the writ petition so as to further contend that one Sri Intezar Ahmad, who happens to be sailing on the same boat has been accorded the same benefits, whereas the writ petitioners' claim has been cancelled illegally.

Prayer in the present petition is for a direction to the respondents to accord arrears of salary for the period from 24.07.2010 to 01.08.2019 as well as other consequential benefits including revision of pay etc.

Sri Shailendra Singh, learned Standing Counsel, who appears for Respondent Nos. 1 to 4 submits that since no decision has been taken in black and white, considering the claim of the petitioners on merit, thus according to him, the writ petitioners may represent their cause before the fourth respondent, who shall pass an appropriate orders, strictly in accordance with law bearing in mind the legal history, which emanates the present case, as well as the allegation of the writ petitioners that one Sri Intezar Ahmad has been accorded the same benefits. According to him, he does not propose to file any response to the writ petition.

To such a submission, learned counsel for the writ petitioner has no objection to the same and 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 fourth respondent, District Inspector of Schools, Ghaziabad with a comprehensive representation accompanied with self-attested copy of the writ petition and on the receipt of the same, who shall thereafter after putting to notice the fifth respondent proceed to decide the entitlement of the writ petitioner strictly in accordance with law within a period of two months from the date of production of certified copy of the order.

Needless to point out that the writ petitioner has been decided without seeking any response from the respondents, thus passing of this order may not be construed to an expression that this Court has adjudicated the matter on merits.

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

Order Date :- 13.10.2023

N.S.Rathour