

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 7237 of 2022

Applicant :- Dr. Satyendra Mishra

Opposite Party :- Sri Prashant Trivedi, Principal
Secretary(Ayurvedic/Ayush) Medical Education

Counsel for Applicant :- Santosh Kumar

Hon'ble Rohit Ranjan Agarwal,J.

The writ Court on 22.01.2021 while disposing of Writ-A No.14770 of 2020 had passed the following order:-

"Heard Sri Santosh Kumar, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

Petitioner claims to be appointed on 30.03.1992 as Medical Doctor/Medical Officer in Ayurvedic/or Unani Medicine on adhoc basis. Pursuant thereof, petitioner alongwith other doctors came to be appointed Medical Officer on adhoc basis by State Government in the pay-scale at Rs. 2200-4000. It is urged that petitioner continued as an adhoc Doctor since 30.03.1992 until his regularization on 16 March 2005.

By means of the instant writ petition, petitioner seeks a direction to the first respondent, Principal Secretary (Medical Education), Anubhag-2 (Ayurvedic), Government of U.P., Lucknow, to pay pension and post retiral benefits to the petitioner after computing services rendered on adhoc basis that is w.e.f. 21.07.1993. It is further urged that the case of the petitioner, on admitted facts, is covered by the Division Bench decision rendered in Dr. Ravindra Kumar and others vs. State of U.P. and others Writ-A No. 22833 of 2018 decided along with other writ petitions. The order dated 23 January 2019 reads thus:

"Heard Sri Vikas Budhwar, learned counsel for the petitioners and Sri Ajit Kumar Singh, learned Additional Advocate General for the respondents.

The petitioners had approached the Supreme Court directly under Article 32 of the Constitution of India. However, the petitions were transferred to this Court for decision as petitions under Article 226 of the Constitution of India.

The petitioners were initially appointed as Medical Officers (Ayurvedic) on contract basis. Subsequently their services were directed to be treated on ad-hoc by separate orders passed sometimes in the year 1992 onwards viz. 28.2.1992. The State Government vide order dated 16.3.2005 directed for regularisation of their services on the post of Medical Officers(Ayurvedic).

The argument of learned counsel for the petitioners is that once their services

on the post of Medical Officers (Ayurvedic) have been regularised under the orders of the State Government, the services rendered by them on ad-hoc basis till the date of their regularisation ought to be added in their regular services for the purposes of grant of terminal benefits.

The above controversy came up for consideration before Division Bench of this Court in Writ-A No.61974 of 2011, Dr. Amrendra Narain Srivastava vs. State of U.P. and others. The Court allowed the aforesaid writ petition vide judgment and order dated 1.3.2012 holding that the petitioners therein, which were similarly situated as the petitioners herein, are entitled to pension with effect from the date when they joined the services with the State Government and the State Government will calculate their pension and make payment accordingly, within the specified period.

The aforesaid decision in Dr. Amrendra Narain Srivastava (supra) was followed by another Division Bench of this Court in Writ-A No.44549 of 2015, Dr. Mayank Shekhar Upadhyay vs. State of U.P. and others, decided on 4.1.2017 and similar directions as aforesaid, were issued therein. This order of the Division Bench of this Court was challenged before the Supreme Court by means of Special Leave Petition No.33111 of 2017, State of U.P. and others vs. Dr. Mayank Shekhar Upadhyay and the same was dismissed on 9.3.2018.

In view of the above, the aforesaid decisions in the matter of Dr. Amrendra Narain Srivastava and Dr. Mayank Shekhar Upadhyay(supra) are final and conclusive.

Thus, following the above decisions, we dispose of this petition holding that the petitioners are entitled to terminal benefits by counting their services from the date of their initial appointment with the State Government and that the respondents shall work out the pension and other dues payable to them accordingly and make the payment within the next two months."

Learned Standing Counsel does not dispute that the case of the petitioner is covered by the said order. He submits that a decision on the representation of the petitioner shall be taken by the first respondent.

In regard thereto, without entering into the merit of the case, as well as, rival contentions raised by the respective parties, it is provided that the first respondent, Principal Secretary (Medical Education), Anubhag-2 (Ayurvedic), Government of U.P., Lucknow shall consider and decide the claim/representation of the petitioner, by a reasoned and speaking order, expeditiously, preferably, within three months from the date of filing of copy of this order along with the copy of the writ petition.

With the aforementioned observations/directions, the writ petition stands disposed of.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad, self attested by the petitioner alongwith a self attested identity proof of the said person (preferably Aadhar Card) mentioning the mobile number to which the said Aadhar Card is linked.

The concerned Court/Authority/Official shall verify the authenticity of such

computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing."

From the perusal of the aforesaid order, it is clear that the writ Court had not entered into the merits of the case and only directed the opposite party to consider and decide the representation of the applicant.

Today, when the matter was taken up, learned Standing Counsel has placed before the Court the instructions so received by him, according to which, the representation of the applicant has been decided on 23.01.2023.

In view of the said fact as the order of the writ Court has been complied with and the representation of the applicant has been decided, present contempt application is rendered infructuous and the same stands dismissed.

However, it is open to the applicant to assail the order passed by the opposite party before appropriate forum, if so advised.

Order Date :- 31.10.2023

SK Goswami