

Court No. - 34

Case :- WRIT - A No. - 16721 of 2023

Petitioner :- Dr. Kamleshwar Singh

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Yogesh Singh

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar,J.

1. Since the present matter is claimed to be covered by the judgment of this Court in the case of ***Surendra Nath Singh v. State of U.P. and Others (Writ A No. 8491 of 2020) decided on 14.12.2020.***

2. In identical set of facts a writ petition being Writ A No. 12869 of 2013, an order was passed on 8th August in following terms:

"1. Heard learned counsel for the parties.

2. The petitioners who are retired medical officers are claiming pension under the Old Pension Scheme by computing their ad hoc services rendered prior to their regularization towards qualifying service for pension. In one such matter of identically placed employee, this Court in Writ A No.8491 of 2020 (Surendra Nath Singh v. State of U.P. and 3 others) vide order dated 14.12.2020 directed for taking into account the ad hoc services rendered by that petitioner in the light of the judgment of the Court in the case of Dr. Ravindra Kumar and 8 others vs. State of U.P. and others passed in Writ-A No.22833 of 2018 alongwith connected matters.

3. It is on the basis of such judgment that the petitioners also filed a writ petition being Writ A No.17837 of 2022 in which a direction was issued to decide the claim of pension of the petitioners in the light of the judgment passed in Surendra Nath Singh (Supra) dated 14.12.2020. Since, the State of U.P., it appears challenged the judgment dated 14.12.2020 in the case of Surendra Nath Singh (Supra) vide Special Appeal Defective No. 393 of 2023, the Chief Secretary has come to reject the claim of the petitioner as there operated an interim stay order. The Special Appeal Defective No. 393 of 2023 has now been finally withdrawn by the State of U.P. and accordingly, order has been passed on 13.07.2023 to following effect:

"1. Sri Brijesh Kumar, learned Standing Counsel for the State appellants, at the outset, submits that he has received

instructions not to press the instant appeal.

2. Sri Yogesh Singh, learned Advocate for respondents is present.

3. In view of the above statement, the appeal is dismissed, as not pressed."

4. Upon a pointed query being made to learned Standing Counsel as to how the order passed by the authority on 28.06.2023 can be sustained, learned Standing Counsel submits that now since the appeal has been dismissed as not pressed the matter is liable to be revisited.

5. This Court does not find approach of the State in the matter to be very appropriate. The State forces a litigant to approach this Court repeatedly and then adopts quite an indifferent attitude in not following the judgments in the name of pending appeal and then to get it voluntarily dismissed as not pressed. Now thus there seems no other consideration but to award pensionary benefits to the petitioners counting ad hoc services already rendered by the petitioner.

6. Let the Under Secretary pass appropriate orders sanctioning the pension of the petitioner counting the period of ad hoc service by the next date fixed and place before the Court, the final pension payment order accordingly failing which he shall appear before this Court on the next date fixed.

7. List this case on 11.09.2023 on the top of the Board."

3. In compliance of the aforesaid order, compliance affidavit has been filed granting pension to that petitioner under old pension scheme. Accordingly, following order has come to be passed today in the abovementioned case:

"In compliance of earlier order of this Court dated 8th August, 2023, learned Standing Counsel has obtained instructions and placed the same before this Court, which are taken on record.

As per compliance affidavit on 30th August, 2023, pension payment order has been issued to the petitioner taking into account ad hoc service rendered by him in the light of judgment of this Court in the case of **Surendra Nath Singh v. State of U.P. and Others (Writ A No. 8491 of 2020) decided on 14.12.2020.**

In view of above, this petition is accordingly consigned to records with the observation that necessary payment would continue to be paid towards pension to the petitioner month by month with all periodical increments as may be admissible in law."

4. Since petitioner is identically placed, this petition

accordingly stands ***disposed of*** in terms of order passed in Surendra Nath Singh's and Dr. Aditya Ram and Another's case (*supra*) with a further direction that pension payment order is also issued taking into account the *ad hoc* service of the petitioner within a period of two months from today subject to verification of facts regarding ad hoc period of service claimed to be rendered by the petitioner.

5. In the circumstances, the order impugned dated 22.05.2023 passed by respondent no. 1 is hereby set aside.

6. Learned Additional Chief Standing Counsel shall intimate this order to the competent respondent immediately.

Order Date :- 12.10.2023

Deepika