

Court No. - 35

Case :- WRIT - A No. - 16812 of 2023

Petitioner :- Dhoop Narayan Singh

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Anand Kumar Pandey

Counsel for Respondent :- C.S.C

Hon'ble Vikas Budhwar,J.

Heard Sri Anand Kumar Pandey, learned counsel for the petitioner and Sri Saurabh learned Standing Counsel, who appears for respondents 1 to 7.

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

The case of the writ petitioner is that the eighth respondent, Amar Shahid Kushal Kumar Uchchattar Madhyamik Vidyalaya, Narayangarh, Ballia is an institution recognised under the provisions of U.P. Intermediate Education Act, 1921 and the provisions of U.P. Act No.24 of 1971 stands applicable. It is the case of the writ petitioner that he was appointed on the post of Assistant Teacher L.T. Grade on 15.5.1990 however though the writ petitioner joined the post in question but the salary of the writ petitioner was not paid so he preferred Writ Petition No. Nil of 1993 in which an interim protection was accorded. Subsequently, the District Inspector of Schools, Ballia accorded payment of salary to the writ petitioner. However according to the writ petitioner the matter with respect to the selections and appointments made in District Ballia became subject matter of challenge an inquiry to be conducted by CBCID and then the judgement in the case of **Dhruv Narain & others vs. State of U.P. and others, Writ Petition No.26307 of 2010** was filed in which certain directions also issued.

The matter with regard to the fact as to whether the writ petitioner appointment was made against sanctioned post or not was subject matter of consideration in **Writ-A No.13546 of 2015 Dhoop Naraya Singh vs. State of U.P. & others** which came to be disposed of on 19.3.2015 requiring the District Inspector of Schools, Ballia to decide the matter thereafter according to the writ petitioner now an order has been passed on 17.4.2018 by the

District Inspector of Schools, Ballia according payment of salary to the writ petitioner.

According to the writ petitioner as stated in para 33 he was paid salary from the month of September, 1994 to June 1995 and thereafter from April 2021 to March 2022 and he retired on 31.3.2022 but the writ petitioner has neither been regularised nor pension and arrears of the same has also been accorded to him.

Learned counsel for the writ petitioner relied upon the judgement in the case of **Prem Singh vs. State of U.P. and others, (2014) 1 UPLBEC 760** as well as judgement in the case of **Ishrat Jahan vs. State of U.P. & 3 others, Writ-A No.5737 of 2018** decided on 7.3.2018 and **Writ-A No.14970 of 2018, Narsingh Rai vs. Deputy Director of Education Varanasi and three others** decided on **dated 24.7.2018**.

Sri Saurabh, learned Standing Counsel on the other hand submits that the issue as to whether the writ petitioner is entitled for payment of salary and the pension depends upon the issue of regularisation as according to him the judgment of the learned Single Judge in the case of **Prem Singh (Supra)** has been stayed in **Special Appeal Defective No.189 of 2014** and so far as **Ishrat Jahan (Supra)** is concerned, it will not apply in the facts of the case. He further submits that the writ petitioner may represent his cause before the fifth respondent Deputy Director of Education, (Secondary) Azamgarh Mandal, Azamgarh, who shall address to the claim of the writ petitioner. He further submits that 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 and he gracefully accepts the same.

Considering the submissions of the rival parties as well as 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 prefer a comprehensive representation along with the self-attested copy of the writ petition before the fifth respondent Deputy Director of Education, (Secondary) Azamgarh Region, Azamgarh, who shall on the receipt of the same put to notice the eighth respondent and thereafter proceed to decide the entitlement of the petitioner strictly in accordance with law bearing in mind the issue with regard to the payment of salary as well as the pension in the wake of the fact that the services of the writ petitioner not be regularised and the issue of regularisation of the writ petitioner. The said exercise is to undertaken within a period

of three months from the date of presentation of the certified copy of the order.

Needless to point out that the writ petition 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 gone into the merits of the case.

With the aforesaid observation, the writ petition is **disposed off**.

Order Date :- 13.10.2023

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