

Court No. - 35

Case :- WRIT - A No. - 16962 of 2023

Petitioner :- Sarvesh Kumar Srivastava

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

Counsel for Petitioner :- Abhay Singh Tomar, Abhishek Bhushan, Adarsh Bhushan

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Sri Abhay Singh Tomar, learned counsel for the writ petitioner and Sri Gaya Prasad Singh, learned Standing Counsel, who appears for respondents 1, 2 and 3.

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

The writ petitioner with respect to a direction to the District Inspector of Schools, Jaunpur for according approval to selection and appointment had preferred Writ-A No.8545 of 2018 in which on 22.3.2018 the following order was passed:-

"Heard learned counsel for the parties.

The petitioner is before this Court with request to issue direction to the District Inspector of Schools, Jaunpur to grant financial approval to his appointment as Assistant Clerk in Mukteshwar Prasad Balika Inter College, Jaunpur and to pay his salary on the said post in accordance with law.

Record in question reflects that the petitioner has been appointed as Class-IV employee in a recognised and aided institution namely 'Mukteshwar Prasad Balika Inter College, Jaunpur'. It is stated that in the institution, one post of Peon was lying vacant from 01.7.2010. The Principal of the institution issued an advertisement in two widely circulated newspapers on 14.10.2011. Pursuant thereto, the petitioner made an application for his appointment to the said post. It is stated that the petitioner was found suitable and selected. Consequently, an appointment letter was issued to him on 9.11.2011. In pursuance thereof, he joined the said post on 15.11.2011 and since then, he is continuously working in the institution in question. The relevant papers were sent to the office of the District Inspector of Schools, Jaunpur on 28.11.2011 for approval but no decision has been taken as yet.

Learned counsel for the petitioner submits that the petitioner was appointed on 9.11.2011 on a sanctioned Class-IV post and he is working on the said post since the date of joining i.e 15.11.2011 but he has not been paid salary. The

matter of approval of his appointment is pending before the District Inspector of Schools and till date no order has been passed. He has placed reliance on the letter of District Inspector of Schools, Jaunpur dated 6.1.2018 (Annexure No.8 to the writ petition) wherein he has asked the Manager of the institution for furnishing the details so that the salary of the petitioner may be ensured. In response of the said letter, the Manager of the institution has also proceeded to submit the entire record pertaining to the appointment of the petitioner and other necessary documents by letter dated 10.1.2018. He states that once the cognizance has already been taken by the District Inspector of Schools on 6.1.2018 and as has been asked by him, necessary papers have also been furnished to the District Inspector of Schools on 10.1.2018, then the authority concerned may proceed in the matter and pass appropriate order strictly in accordance with law.

Learned Additional Chief Standing Counsel has no objection to the said prayer.

Consequently, with the consent of parties, without expressing any opinion on the merits of the issue and considering the facts and circumstances of the case, the writ petition is disposed of by issuing a direction upon the District Inspector of Schools, Jaunpur to look into the grievance of the petitioner and pass an appropriate order in accordance with law after taking necessary comments from the Committee of Management of the institution in question, which has been arrayed as respondent no.3 to the writ petition, within a period of six weeks from the date of communication of this order."

A correction application is stated to have been allowed on 3.4.2018 the following order was passed:-

"Heard petitioners' counsel on the application for correction of order dated 23.3.2018.

Submission of counsel for the applicant is that while transcribing the order dated 23.3.2018, in second line of the third paragraph the word 'Class IV' has wrongly been typed in place of the word 'Class III' and in the fifth line of the same paragraph the word 'Peon' has wrongly been typed in place of the word 'Assistant Clerk' and also in the sixth line of the same paragraph the word 'Principal' has wrongly been typed in place of the word 'Manager'. In the third line of fourth paragraph the word 'Class IV' has wrongly been typed in place of the word 'Class III', due to which he is facing difficulty. As such, he prays for correction as aforesaid.

This application is allowed and ordered accordingly.

This order shall form the part of the order dated 23.3.2018. Copy of this order shall also be issued along with the aforesaid order."

While drawing attention towards at page 30 of the paper book it is being sought to be demonstrated that the District Inspector of Schools, Jaunpur had issued communication to the fourth respondent institution for hearing and thereafter at page 32 it is a

representation of the writ petition dated 14.7.2023 to the Additional Director of Education (Madhyamik), Prayagraj.

Prayer in the present petition is for payment of regular salary to the writ petitioner from his joining i.e. from 08.11.2011 and to decide the representation dated 14.7.2023.

Sri Gaya Prasad Singh, learned Standing Counsel submits that technically it is a second writ petition for the same cause of action as writ petition is armed with an order of this Court.

Be that as it may be since the writ petition is second writ petition thus it would not lie however it is open for the writ petitioner to raise his grievance and to approach the Competent Authority including District Inspector of Schools, Jaunpur if he so chooses in that regard.

With the aforesaid observation, the writ petition is **consigned to record.**

Order Date :- 3.11.2023

piyush