

Court No. - 35

Case :- WRIT - A No. - 16949 of 2023

Petitioner :- Umesh Kumar Chaurasia

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Siddharth Khare, Sr. Advocate

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Sri Siddharth Khare, learned counsel for the petitioner and Sri Santosh Kumar learned Standing Counsel, who appears for respondents 1, 2 and 3.

The case of the writ petitioner is that an advertisement was published bearing no.1/2002/03 inviting applications for several posts including the post of Lecturer in different subjects for Government Polytechnics.

Learned counsel for the writ petitioner applied for the post of Lecturer in Mathematics. He was called in the interview held on 2.9.2004 and thereafter a notification was published on 19.10.2004 wherein the writ petitioner was found to be selected for the post in question and his name found place at serial no.4. A communication had been issued by the State Government on 20.12.2004 whereby the name of the selected candidates was forwarded to Director General Medical and Health for getting their medical fitness test. However, according to the learned counsel for the writ petitioner on account of delay of the respondents, the appointment letter was issued on 31.8.2005 and he was posted in Government Polytechnic, Mahoba and he joined the post on 14.9.2015.

It is the further case of the writ petitioner that had the appointment order been issued within time then prior to the implementation of new pension scheme w.e.f. 1.4.2005 by virtue of the notification dated 28.3.2005 he would have been entitled to benefits of Old Pension Scheme.

Prayer in the present petition is for mandamus directing the respondents, to treat the writ petitioner covered under old pension scheme and to allot regular GPF account number.

Learned counsel for the writ petitioner relies upon the decision in Writ-A No.5208 of 2017, Ashish Kumar vs. State of U.P. and 2 others decided on 4.7.2023.

Learned Standing Counsel submits that might be the writ petitioner is right in contending that he participated in the selections held pursuant to advertisement no.1/2002/03 and he appeared in the interview on 2.9.2004 and he was selected in the year 2004 though accorded appointment on 31.8.2005 and he joined on 14.9.2015 but the issues relating to the fact as to whether the writ petitioner is entitled to be granted treatment and benefit under the old pension scheme needs to be addressed by the Additional Chief Secretary Technical Education Department, Government of Uttar Pradesh, at first instance. He further submits that the writ petitioner may approach the said authority through proper channel and he does not propose to file any response to the writ petition.

To such a submission, learned counsel for the 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 approach the first respondent, Additional Chief Secretary Technical Education Department, Government of U.P., Lucknow through proper channel while filing comprehensive representation along with the self-attested copy of the writ petition and on the receipt of the same, first respondent shall decide the claim of the petitioner strictly in accordance with law within a period of three months from the date of presentation of the certified copy of the order after examining the record as well as the entitlement of the writ petitioner also the applicability of the judgement in the case of Ashish Kumar (Supra). In case the first respondent is of the opinion that the matter needs to be addressed by any other authority then papers be transmitted to it with due information to the writ petitioner and in case any input is required then the writ petitioner be apprised of the same so as to facilitate the disposal of the claim in the right perspective within time period.

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 :- 16.10.2023

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