

Court No. - 10

Case :- WRIT - A No. - 23913 of 2018

Petitioner :- Dr. Nem Chand Jain

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

Counsel for Petitioner :- Vikas Budhwar, Komal Mehrotra, Nipun Singh

Counsel for Respondent :- C.S.C.

Hon'ble Kshitij Shailendra, J.

1. This writ petition has been nominated to this Bench under the order passed by Hon'ble The Chief Justice.

2. Heard Shri Sumit Suri, learned Advocate, holding brief of Shri Nipun Singh, learned counsel for the petitioner and learned Standing Counsel for the State-respondents. No one has appeared on behalf of respondent No.3 despite sufficiency of service held long ago on 27.9.2021. Therefore, the Court proceeds to finally decide this matter.

3. The case of the petitioner is that he was appointed as Lecturer (Hindi) in Digamber Jain Adarsh Mahila Post Graduate College, Sri Mahaveer Ji (Rajasthan), in the year 1997 and when he intended to join the respondent No.3-Institution, he applied for No Objection Certificate before the Digamber Jain Adarsh Mahila Post Graduate College, Sri Mahaveer Ji (Rajasthan), which issued the NOC on 1.7.2008 whereafter the petitioner was appointed in the respondent No.3-Institution on 4.9.2008.

4. It is contended that on 2.2.2009, the petitioner resigned from the Rajasthan Institution, however, after two months thereafter on 13.4.2009, the services of the petitioner were terminated by the Rajasthan Institution.

5. The case of the petitioner is that when he pressed his claim for seniority etc., at the strength of services rendered in Rajasthan, no consideration was made by the respondents and, therefore, he filed Writ-A No.31477 of 2017 (Dr.Nem Chand Jain vs. State of UP and 3 others), which was disposed of by a Division Bench of this Court on 19.7.2017 directing the Director of Education (Higher) Allahabad to decide the claim of the petitioner by a reasoned and

speaking order.

6. It is contended that by the order impugned dated 3.8.2018, the petitioner's claim has been rejected by the Director of Education and most of the observations are based upon the order of termination dated 13.4.2009 passed by the Rajasthan Authorities. He submits that the order of termination dated 13.4.2009 has been set aside by the Rajasthan Non-Government Educational Society Tribunal, Jaipur, by judgment dated 1.12.2022 and directions for releasing consequential benefits have also been issued. It is, therefore, submitted that in view of the order dated 1.12.2022, the order impugned should be set aside and appropriate directions be issued.

7. Learned Standing Counsel, on the other hand, submits that the order dated 1.12.2022 has been passed subsequent to filing of the writ petition and at the time when Director decided the matter, the said order was not in existence. He further submits that the respondents before the aforesaid Tribunal being Committee of Management of Digamber Jain Adarsh Mahila Post Graduate College, Sri Mahaveer Ji (Rajasthan), there might be possibility that the order dated 1.12.2022 might have been challenged before the appropriate court/forum, however, in absence of said Committee being a party to the present writ petition, no final opinion should be expressed by this Court.

8. Considering the facts and circumstances of the case, the writ petition stands **disposed of** in the following terms:

(i) The petitioner shall file a certified copy of this order before the Director of Education (Higher) Allahabad, UP, within three weeks from today.

(ii) The Director shall issue notice to the Committee of Management of Digamber Jain Adarsh Mahila Post Graduate College, Sri Mahaveer Ji (Rajasthan) only for the purposes of obtaining information as to whether the order dated 1.12.2022 passed by the Tribunal in Appeal No.20 of 2009 has attained finality or not.

(iii) For the aforesaid purpose, the petitioner shall file a copy of the judgment dated 1.12.2022 before the Director of Education.

(iv) After receiving response from the C/M Digamber Jain Adarsh Mahila Post Graduate College, Sri Mahaveer Ji (Rajasthan) and after affording opportunity of hearing to the petitioner, the Director

shall pass a fresh order on the petitioner's claim for seniority etc.

(v) The petitioner shall also file specific affidavit about the status of the order dated 1.12.2022 in relation to finality attached to it.

(vi) Such a decision shall be taken **within two months** after response is received from the C/M Digamber Jain Adarsh Mahila Post Graduate College, Sri Mahaveer Ji (Rajasthan).

(vii) The order impugned dated 3.12.2018 shall remain subject to fresh order to be passed by Director of Education as directed herein above.

Order Date :- 17.11.2023

LN Tripathi