

Court No. - 35

Case :- WRIT - A No. - 17096 of 2023

Petitioner :- Manish Kumar

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

Counsel for Petitioner :- Seemant Singh

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

In Re: Impleadment Application No.2 of 2023

By means of the present impleadment application, the writ petitioner seeks to implead Principal, B.SN.V. P.G. College, Charbagh, Lucknow.

Since there is no opposition by Sri Awadhesh Kumar Mishra, learned Standing Counsel, to the same, the impleadment application is **allowed**.

The learned counsel for the writ petitioner is permitted to implead Principal, B.SN.V. P.G. College, Charbagh, Lucknow.

In Re: Writ Petition

Heard Sri Seemant Singh, learned counsel for the petitioner, Sri Awadhesh Kumar Mishra, the learned Standing Counsel, who appears for Respondent Nos. 1, 2 and 4.

In view of the order, which is being proposed to be passed today, notices are not being issued to the third and fifth respondents.

The case of the writ petitioner is that he was initially appointed on the post of Assistant Professor in the subject Physics in Ramjas College, University of Delhi, Delhi on 19.10.2015 under Reserved Category of SC in the Department of Physics on ad hoc basis at an initial salary of Rs.15600/- with AGP 6000/- p.m. in the pay band of Rs. 15600-39100 plus other admissible allowances w.e.f. the date of the joining for a period of 120 days or till Selection Committee meets, whichever is earlier, subject to the approval by the Governing Body and the University. In paragraph-6 of the writ petition, it is further asserted that pursuant to the appointment order dated 19.10.2015, he continued till 15.02.2016 and he was reappointed on 17.02.2016 to 20.05.2016 and there was a summer vacation in the month of June for which, the petitioner was paid

his salary and thereafter he was further reappointed on 20.07.2016 to 16.11.2016 and further reappointed on 18.11.2016 to 17.03.2017 followed by reappointment on 20.03.2017 to 16.11.2017 and 18.11.2017 to 17.03.2018, 20.03.2018 to 19.05.2018, 19.11.2018 to 18.03.2019 and from 20.03.2019 to 15.04.2019. It is the further case of the writ petitioner that a certificate to the said extent was also issued.

Since the writ petitioner claims to have obtained qualification of NET (JRF) so he applied in pursuance of the recruitment drive initiated by U.P. Higher Education Service Commission, Prayagraj, Advertisement No.46 and he claims to have been selected as an Assistant Professor in subject Physics and a placement order is stated to have been issued by Director of Education (Higher) on 18.03.2019 and the writ petitioner consequent to the appointment order dated 25.03.2019 joined the post on 16.04.2019. Relying upon the provisions contained under the UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education, 2018 dated 18.07.2018, the writ petitioner claims that since his appointment was ad hoc, thus in view of Clause 10(f), his past services are entitled to be considered and included in that regard.

However, according to the writ petitioner, on 06.04.2023, the fifth respondent, Principal, B.S.N.V. P.G. College, Charbagh, Lucknow has proceeded to negate the claim of the writ petitioner.

The submission of the writ petitioner is that the order passed by the fifth respondent, Principal, B.S.N.V. P.G. College, Charbagh, Lucknow is bereft of any reason and it has not considered the import and the impact of the UGC Notification dated 18.07.2018 and according to him, reliance has been placed upon the UGC Notification dated 30.06.2010, which would not apply, as in the present case in hand, according to him, the only bar is that the previous appointment as a Guest Lecturer will not be considered. However, once there was a notional break that too for a short period, it could not have been made the basis for not considering the claim of the writ petitioner.

Sri Awadhesh Kumar Mishra, learned Standing Counsel who appears for Respondents submits that whatever argument the writ petitioner is seeking to raise, needs determination by the Director of Education (Higher), U.P. Prayagraj, as according to him, he is competent authority to deal with the same, and as the Director is stationed at Allahabad/Prayagraj, thus he says that the writ petition

would be maintainable before this Court and this Court has the jurisdiction as the part of the cause of action would lie here in that regard. He thus submits that let the writ petitioner approach the Director of Education (Higher), U.P. Prayagraj, 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, Sri Seemant Singh, learned counsel for the writ petitioner has no objection and he gracefully accepts the same. He submits that he shall be approaching the Director of Education (Higher), U.P. Prayagraj, however, he may be directed to decide the same within the time stipulated therein.

Considering the submission of the rival parties as well as the 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 second respondent, Director of Education (Higher), U.P. Prayagraj, by raising all his grievances by filing a comprehensive representation accompanied with self-attested copy of the writ petition, who shall, on the receipt of the same, shall put to notice the third and fifth respondents and the writ petitioner and thereafter proceed to seek their version and pass a reasoned and speaking order within a period of three months from the date of production of certified copy of the order strictly in accordance with law as per the UGC Notifications, if applicable in that regard. It is expected that the second respondent, Director of Education (Higher), U.P. Prayagraj shall deal with the matter with independent application of mind.

With the aforesaid observations the writ petition stands **disposed off**.

Order Date :- 30.10.2023

N.S.Rathour