

Court No. - 36

Case :- WRIT - A No. - 17294 of 2023

Petitioner :- Hemant Singh And 3 Others

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Ashutosh Kumar Tiwari, Ram Bilas Yadav

Counsel for Respondent :- C.S.C, Ashish Kumar Singh

Hon'ble Manjive Shukla, J.

1. Heard learned counsel appearing for the petitioners, learned Standing Counsel appearing for the Respondents No. 1, 2 & 3 as well as Sri Ashish Kumar Singh, learned counsel appearing for the Respondents No. 4 & 5.

2. In view of the proposed order, notice to Respondent No. 6 is dispensed with.

3. Petitioners' father while working on the post of Assistant Teacher in Senior Basic School Sirauli Block Akola, District Agra died on 10.04.2018. Though petitioners' father died on 10.04.2018 but till date, death-cum-retirement gratuity admissible to the petitioner on account of death of late Om Veer Singh has not been paid.

4. Learned counsel appearing for the petitioners has invited attention of this court towards representation dated 06.09.2023 whereby petitioners have made a request from the District Basic Education Officer, Agra to release death-cum-retirement gratuity admissible to deceased father of the petitioners.

5. Learned counsel appearing for the petitioner has argued that the identical issue has already been considered and decided by this court in ***Writ-A No. 17399 of 2019 (Usha Rani Vs. State of U.P. and 6 others)*** and it has been held that if the death of any teacher working in the primary school takes place before he attains the age of 60 years then his legal heirs will be entitled for payment of death-cum-retirement gratuity.

6. Learned counsel appearing for the petitioners has also argued that State Government has already taken cognizance of the matter and has issued a Government Order on 03.02.2023 whereby it has

been provided that if a teacher before attaining the age of 60 years could not submit his option to retire at the age of 60 years and has died then his legal heirs shall be entitled for the payment of death-cum-retirement gratuity.

7. Sri Ashish Kumar Singh, learned counsel appearing for the Respondents No. 4 & 5 has submitted that since petitioners have already represented their case to the District Basic Education Officer, Agra, therefore, grievance of the petitioners can very well be looked into by the said officer.

8. I have considered the submissions advanced by the learned counsels appearing for the parties and prima-facie I find that petitioners' case is covered by the Government Order dated 03.02.2023.

9. In view of the aforesaid, this writ petition is ***disposed of*** with a direction to the District Basic Education Officer, Agra to consider and decide petitioners' representation in the light of the provisions made in the Government Order dated 03.02.2023 and in the light of judgement of this court rendered in ***Writ-A No. 17399 of 2019 (Usha Rani Vs. State of U.P. and 6 others)*** within a period of six weeks from the date of service of certified copy of this order.

10. It is also provided that the District Basic Education Officer while considering the representation of the petitioners, shall also afford opportunity of hearing to Respondent No. 6 i.e. Smt. Sunita.

11. It is also directed that if the District Basic Education Officer comes to the conclusion that legal heirs of Late Om Veer Singh are entitled for payment of death-cum-retirement gratuity, the said payment shall be released within 15 days from the date of passing of order on the representation.

Order Date :- 9.11.2023

A. Mandhani