

Court No. - 35

Case :- WRIT - A No. - 17374 of 2023

Petitioner :- Pooran Singh Brijwasi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Durga Tiwari

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Heard Ms. Durga Tiwari learned counsel for the writ petitioner as well as Sri Pradeep Kumar Shahi, learned Additional Chief Standing Counsel, who appears for the respondents no. 1 to 3.

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

The case of the writ petitioner is that one post of Clerk fell vacant consequent to the resignation of Sri Raj Kumar and the said post stood advertised on 18.1.2000 by the Committee of Management of C.L. Jain Inter College, Firozabad. The writ petitioner claims to have participated in pursuance of the said selection and he was selected by the Selection Committee on 16.3.2001 and the entire papers were transmitted to the third respondent, Regional Higher Education Officer, Agra Region, Agra for according approval in which objections were raised on 3.6.2002.

As per the writ petitioner one of the Class-IV employees, Amar Singh filed Writ Petition No.10951 of 2001 challenging the advertisement dated 18.1.2000 in which an interim order was passed by this Court. The writ petitioner preferred Writ-A No.53797 of 2002, Pooran Singh Brijwasi vs. Principal & others with a prayer to issue an appointment order in pursuance of the recommendation of the Selection Committee.

During the pendency of the writ petition, an order stated to have been passed by the third respondent, Regional Higher Education Officer, Agra Region, Agra on 22.10.2002, it refused to accord approval to the selection/appointment of the writ petitioner which entailed the writ petition to file an amendment application.

In para 14 of the writ petition, it is further asserted that the writ petition preferred by Sri Amar Singh, Writ Petition No.10591 of 2001 which came to be dismissed and dismissed for want of prosecution on the count that he was accorded promotion as the Laboratory Assistant and in the meantime the Writ Petition preferred by the writ petitioner, Writ Petition No.53797 of 2002,

Pooran Singh Brijwasi vs. Principal & others came to be allowed on 17.8.2012 setting aside the order dated 22.10.2002 enabling the authorities to pass a fresh order thereafter according to the writ petitioner the third respondent, Regional Higher Education Officer, Agra Region, Agra proceeded to pass an order dated 7.9.2012, financial approval to the writ petitioner and the writ petitioner claims to have preferred contempt proceedings as he was not accorded placement.

In para 18 of the writ petition, it is further asserted that the Committee of Management the institution in question preferred Writ Petition No.60537 of 2012 challenging the order dated 7.9.2012 which according to the writ petitioner was disposed of on 23.11.2012 to take a decision in accordance with law and thereafter both the writ petitions came to be disposed of on 23.11.2012 requiring the Regional Higher Education Officer, Agra Region, Agra to take a fresh decision. According to the writ petition now Regional Higher Education Officer, Agra Region, Agra has proceeded to pass an order dated 31.3.2013 granting approval to the appointment of the writ petitioner.

It is further the case of the writ petitioner that since he has been accorded joining on 1.3.2014 though entitled to joining prior to the enforcement of the new pension scheme w.e.f. 1.4.2005 by virtue of the Government Order dated 28.3.2005 thus he has represented the matter before the third respondent, Regional Higher Education Officer, Agra Region, Agra for consideration of the claim under old pension scheme.

Prayer in the present petition is for a direction to the second respondent, Director of Higher Education, Prayagraj to accord consideration to the claim of the writ petitioner.

Sri Pradeep Kumar Shahi, learned Additional Chief Standing Counsel on the other hand submits that the issue as to whether the writ petitioner is entitled to the said benefits needs determination at the first instance by the second respondent and according to him the writ petitioner may represent his cause before the second respondent who shall consider the claim of the writ petitioner

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 prefer a comprehensive representation along with the self-attested copy of the writ petition before second respondent, Director of Higher Education, Prayagraj, who shall on

the receipt of the same, put to notice before the fourth and fifth respondents thereafter proceed to decide the entitlement 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 without being influenced and obsessed by any of the observations made herein above.

With the aforesaid observation, the writ petition is **disposed off**.

Order Date :- 13.10.2023

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