

Court No. - 35

Case :- WRIT - A No. - 17236 of 2023

Petitioner :- Dr. Smt. Usha Singh

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

Counsel for Petitioner :- Prabhat Kumar Singh, Akhilendra Singh

Counsel for Respondent :- C.S.C, Vivek Kumar Rai

Hon'ble Vikas Budhwar, J.

Heard Sri Prabhat Kumar Singh, learned counsel for the writ petitioner, Shri Ravi Prakash, Advocate (A/R 0956/2018) holding brief of Shri Vivek Kumar Rai, learned counsel for the respondent No. 2 and Sri Shailendra Singh, learned Standing Counsel, who appears for Respondents 1, 3 and 4.

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

The case of the writ petitioner is that the fifth respondent, C.L. Jain Post Graduate College Firozabad is affiliated to Dr. Bheem Rao Ambedkar University, Agra. The writ petitioner claims to be initially appointed as a lecturer in subject mathematics by virtue of an order of the third respondent, Director of Higher Education, U.P., Prayagraj on 30.10.1995 and he was issued an appointment order on 23.11.1995 and he assumed charge on 01.12.1995. It is the case of the writ petitioner that he was placed under suspension on 06.07.2021 by the institution in question which came to be disapproved by the University on 20.04.2023 and the said order has attained finality. However, pursuant to a circular issued by the State Government dated 01.11.2021, promotion exercises is to be undertaken for selection and recruitment on the post of Assistant Professor. The writ petitioner candidature was put forward

pursuant to the decision of the selection committee which was convened on 31.05.2023 but on account of certain charges, the claim of the writ petitioner had not been processed.

Prayer in the present petition is for a direction to ensure steps for consideration of the claim of the writ petitioner for promotion as professor in the institution in question.

Learned Standing Counsel as well as counsel appearing for the University on the other hand submits that the crucial question as to whether the writ petitioner is entitled to be granted benefit as a Professor needs determination at the first instance by the third respondent, Director of Higher Education, U.P., Prayagraj and according to him, the writ petitioner may represent his cause before the second respondent. They further submits that they do not propose to file any response.

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 the third respondent, who shall on the receipt of the same, proceed to decide the claim of the petitioner strictly in accordance with law, third respondent shall put to notice to fifth and sixth respondent and thereafter proceeded to decide the claim bearing in mind that as to whether post disapproval of the suspension whether any departmental proceedings has been initiated against him pursuant to service of chargesheet or not and further with regard to the

eligibility, suitability or any other legal impediment which may come in the way. The said exercise is to be conducted after putting to notice to fifth and sixth respondent within a period of two months from the date of presentation of the certified copy of the order.

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 :- 6.11.2023

A. Prajapati