

Court No. - 35

Case :- WRIT - A No. - 17230 of 2023

Petitioner :- Smt. Tanveer Jahan

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

Counsel for Petitioner :- Mukesh Kumar Kushwaha, Mahima Maurya Kushwaha

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Ms. Mahima Maurya Kushwaha, learned counsel for the petitioner and Sri Ratan Deep Mishra, learned Standing Counsel, who appears for respondents 1, 2 and 3.

The case of the writ petitioner is that her husband namely Asif Ali (Since deceased) who was appointed as an Assistant Teacher on 8.10.2007 dying in harness on 17.4.2021. The writ petitioner being the legally wedded wife made a representation on 6.6.2022 for the payment of the gratuity. Since the claim of the writ petitioner was not being processed with so the writ petitioner preferred Writ-A No.16186 of 2022, which came to be disposed of on 12.10.2022 requiring the respondents to decide the issue.

Now according to the writ petitioner on 17.6.2023 the District Inspector of Schools, Amroha, third respondent has though acceded to the claim of the writ petitioner for the payment of gratuity but the interest on the delayed payment have been denied on the ground that the Deputy Director of Education, Moradabad had issued an order on 26.4.2023 and directed the Senior Treasury Officer, Amroha to release Rs.15,91,200/- as an amount payable towards gratuity. She submits that once the writ petitioner has staked her claim on 6.6.2022 for gratuity then interest component ought to have been extended to the writ petitioner.

Prayer in the present petition is for quashing of the order dated 17.6.2023 in so far as it seeks to denude the writ petitioner for payment of interest on delayed payment of death cum retirement gratuity.

Sri Ratan Deep Mishra, learned Standing Counsel submits that the issue as to whether the writ petitioner is legally entitled to interest

depends upon fault theory. He thus submits that let District Inspector of Schools, Amroha, third respondent take a conscious decision on only interest part. He further submits that let the writ petitioner represent her cause for reconsideration of the matter. He further submits that he does not propose to file any response to the writ petition.

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, District Inspector of Schools, Amroha who shall on the receipt of the same, the third respondent shall after putting to notice the institution whereat the husband of the writ petitioner used to work who has not been impleaded as a party respondent decide the claim of the writ petitioner for payment on interest on delayed payment of death cum retirement gratuity. The order which is being impugned in the writ petition will not come in the way and shall be subject to final order to be passed therein.

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

piyush