

Court No. - 35

Case :- WRIT - A No. - 17732 of 2023

Petitioner :- Mithlesh Kumar Gupta And Another

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

Counsel for Petitioner :- Gautam Baghel, Durgesh Pratap Singh

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

1. Heard Sri Utkarsh Singh (AOR No.A/U 1510/22) holding brief of Sri Gautam Baghel, learned counsel for the petitioners and Sri Santosh Kumar, learned Standing Counsel for the Respondent Nos. 1 to 3.

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

3. The case of the petitioners, who are two in number, is that the fourth respondent, Kisan Inter College, Bhagya Nagar, Etawah, Uttar Pradesh is an institution which was brought in grant-in-aid list of the State Government in the year 1989 and it imparts education to Classes-1 to 12. In paragraph-5 of the writ petition, it has been further asserted that the affairs of the institution are being regulated under the provisions of U.P. Intermediate Education Act, 1921 and the U.P. Act no.24 of 1971. As per the writ petitioners, by virtue of the Government Order dated 06.09.1989, though initially the attached primary section was not put in grant-in-aid by the State Government, however, post-issuance of the Government Order dated 06.09.1989 w.e.f. 01.10.1989, the attached primary section was put in grant-in-aid. In paragraphs-7 and 8, it has been asserted that so far as the petitioner nos. 1 and 2 are concerned, they were appointed as Assistant Teachers in attached primary section on 09.07.1984, 08.07.1981 and they stood superannuated on 31.03.2020, 31.03.2021 and they were drawing their last salary prior to their superannuation, being Rs.70,000/- and Rs.76,500/- respectively. In paragraph-11, a further assertion has been made that the writ petitioners have received salary from the State Exchequer from 01.10.1989. However, post their retirement, now they are not being granted pension from 1.10.1989, rather to the contrary, they have been granted pension with effect from issuance of the Government Order dated 20.01.2004 extending the benefit of the 1964 Pension Rules. In paragraph-18, it has is further

asserted that the State Government has also tendered its contribution towards G.P.F.

4. Grievance of the writ petitioners is that despite the fact that they are entitled to be paid pension taking into account the services rendered from 01.10.1989 for the payment of pension and other benefits, but the pension is being computed from 2004 itself.

5. Prayer in this petition is for a direction to consider the claim of the writ petitioners for inclusion of the period undergone by them since the year 1989 for adding and payment of pension.

6. Sri Santosh Kumar, learned Standing Counsel on the other hand submits that the issue as to whether the writ petitioners are entitled to the benefits of adding the services rendered since 1989 is to be decided at the first instance by the second respondent, Deputy Director of Education, Kanpur Region, Kanpur, who shall address to the claim of the writ petitioners. He submits that the writ petitioners may represent their cause before the second respondent and as per the instructions received by him, the official respondents do not propose to file their response to the writ petition.

7. To such a submission, learned counsel for the petitioners has no objection and he gracefully accepts the same.

8. Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed off granting liberty to the writ petitioner to approach the second respondent, while filing a comprehensive representation accompanied with self-attested copy of the writ petition, who on the receipt of the same shall put to notice to fourth respondent and the writ petitioners in advance in writing and thereafter proceed to consider the claim of the writ petitioners, strictly in accordance with law, within a period of three months from the date of production of certified copy of the order bearing in mind the following fundamental and core issues: (a) The claim of the writ petitioners regarding the entitlement of the adding of services undergone in the year 1989 pursuant to the Government Order dated 06.09.1989, whereby the fourth respondent-institution was put in grant-in-aid with regard to the attached primary section; (b) the continuance of the petitioners as claimed by them after verifying the records from the Committee of Management of the Institution in question; (c) the entitlement of the writ petitioners as per the statute and the Government Order and policy in vogue; (d) any other ancillary or incidental issue in that regard.

9. Needless to point out that this writ petition has been decided without seeking any response, thus passing of this order may not be construed to an expression that this Court has adjudicated the matter on merits and the second respondent shall decide the issue with independent application of mind without being influenced or obsessed with any of the observations made hereinabove.

10. In case, the second respondent is of the opinion that some other authority is to address the claim of the writ petitioner, then the writ petitioners as well as the fourth respondent be informed about the same in writing in advance and further in case, any eventuality arises, seeking inputs, then the petitioners and the fourth respondent shall be informed in writing so as to facilitate the early disposal of the claim.

11. With the aforesaid observations the writ petition stands disposed of.

Order Date :- 6.11.2023

Rajesh