

Court No. - 35

Case :- WRIT - A No. - 17986 of 2023

Petitioner :- Smt. Sarla Devi

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

Counsel for Petitioner :- Aman Arya

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

1. Heard Sri Aman Arya learned counsel for the writ petitioner and Sri Santosh Kumar Mishra, learned Standing Counsel who appears for respondents No.1 to 3.
2. In view of the order which is being proposed to be passed today, notice is not being issued to the fourth respondent.
3. The case of the writ petitioner is that her husband namely, Radheshyam Kushwaha who was granted appointed on the post of Assistant Teacher in the fourth respondent-institution, Shri Swami Ram Prakash Adarsh Inter College, Tiraha Murhash, District Farrukhabad on 07.12.1980 and who died-in-harness on 24.04.2013. However, the writ petitioner is entitled to the payment of death-cum-retirement gratuity but the same has not been paid to her. Reliance has been place upon the decision in **Writ A No. 7416 of 2019 (Smt. Sarvesh Kumari Vs. State of U.P. & Others)** decided on 14.05.2019.
4. Prayer in the present petition is for a direction to the respondents to pay death-cum-retirement gratuity of her husband.
5. Sri Santosh Kumar Mishra, learned Standing Counsel, on the other hand, submits that the issue as to whether the writ petitioner is entitled to the said benefit is to be decided at the first instance by the second respondent, Deputy Director of Education (Secondary), Kanpur Region, Kanpur who shall address to the claim of the writ petitioner. Learned Standing Counsel who appears for respondents No. 1 to 3 does not propose to file any response to the writ petition.
6. To such a submission, learned counsel for the writ petitioner has

no objection and he gracefully accepts the same.

7. Considering the submission of the rival as well as the stand taken by them, the writ petition is being disposed of without seeking any response from the respondents granting liberty to the writ petitioner to prefer a comprehensive representation before the second respondent, Deputy Director of Education (Secondary), Kanpur Region, Kanpur who shall on the receipt of the same along with the self attested copy of the writ petition decide the claim of the writ petitioner as well as competing claim, if any, strictly in accordance with law after putting to notice the fourth respondent in advance in writing and thereafter proceed to decide the claim of the writ petitioner within a period of three months from the date of production of certified copy of the order.

8. With the aforesaid observation, the writ petition stands disposed of.

9. Needless to point out that the writ petition is being disposed of without seeking any response from the respondents and thus passing of the order may not be construed to an expression that this Court has adjudicated the matter on merits

Order Date :- 27.10.2023

Rajesh