

**Court No. - 36**

**Case :-** WRIT - A No. - 17942 of 2023

**Petitioner :-** Kusum Devi

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

**Counsel for Petitioner :-** Kamal Kumar Kesharwani

**Counsel for Respondent :-** C.S.C., Bhupesh Pratap Singh

**Hon'ble Manjive Shukla, J.**

1. Heard Sri Kamal Kumar Kesarwani, learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondent No.1 as well as learned counsel appearing for the Respondents No. 2 and 3.

2. Petitioner through this writ petition has prayed for a direction from this court thereby commanding the Respondent No. 2 to regularize the services of the petitioner from the date of her initial appointment and to pay her salary in a regular pay scale and other service benefits from the date of her initial appointment.

3. Facts of the case, in brief, are that the petitioner was appointed on compassionate ground vide appointment order dated 16.09.1999 on a Class IV post on a fixed pay of Rs.2550/- per month. Petitioner pursuant to the aforesaid appointment order issued by the Deputy Basic Education Officer, Bijnor submitted her joining in the concerned school on 18.09.1999. The District Basic Education Officer, Bijnor vide his order dated 02.05.2005 regularized the petitioner on a Class IV post. At present petitioner is continuously discharging duties attached to her post in Composite School Khatai, Block Noorpur, District Bijnor.

4. Petitioner has submitted several representations to the District Basic Education Officer, Bijnor, wherein it has been mentioned that the law in respect of appointment on compassionate ground has already been settled by this court and it has been held that the compassionate appointment from the date of initial appointment has to be treated as regular appointment in a regular pay-scale and it has been requested that petitioner's appointment may be considered as regular appointment on a Class IV post and she may be granted salary in a regular pay scale admissible to Class IV employees with effect from the date of her initial appointment.

5. Learned counsel appearing for the petitioner has argued that this court has already settled the law in respect of issue involved in this writ petition and it has been held that the appointment on compassionate ground cannot be made on a fixed pay and on temporary basis rather it has to be regular appointment in a regular pay-scale from the date of initial appointment.

6. Learned counsel appearing for the petitioner has invited attention of this court towards the judgment and order dated 2.8.2023 passed by this court in **Writ-A No.6719 of 2023 (Praveen Kumar vs. State of U.P. and others)**, wherein this court has categorically held that appointment on compassionate ground has to be treated as regular appointment from the date of initial appointment and such appointee is entitled for payment of salary in a regular pay-scale from the date of his initial appointment.

7. Learned counsel appearing for the petitioner has submitted that this writ petition filed by the petitioner is liable to be allowed by this court in terms of judgment and order dated 2.8.2023 passed by this court in **Writ-A No.6719 of 2023 (Praveen Kumar vs. State of U.P. and others)**.

8. Learned counsel appearing for the Respondents No.2 and 3 does not dispute that the issue involved in the present writ petition has already been decided by this court vide judgment and order dated 2.8.2023 passed in Writ-A No.6719 of 2023, wherein it has been held that compassionate appointment has to be treated as a regular appointment from the date of initial appointment and salary is also liable to be paid in regular pay-scale from the date of initial appointment.

9. I have considered the submissions advanced by the learned counsels appearing for the parties and I find that the petitioner in this writ petition has prayed that her appointment made on compassionate ground on a fixed pay may be treated as regular appointment and she may be paid salary in a regular pay-scale admissible to Class IV employees with effect from the date of her initial appointment.

10. I find that identical issue has already been considered and decided by this court vide judgment and order dated 2.8.2023 passed in **Writ-A No.6719 of 2023 (Praveen Kumar vs. State of U.P. and others)**, wherein it has been held that appointment on compassionate ground has be treated as regular appointment from the date of initial appointment and such appointee is entitled for payment of salary in the regular pay-scale from the date of his

initial appointment.

11. In view of the aforesaid reasons, this writ petition is liable to be allowed in terms of the judgment and order dated 2.8.2023 passed by this court in Writ-A No.6719 of 2023.

12. Accordingly, this writ petition is allowed. The District Basic Education Officer, Bijnor is directed to consider the matter of the petitioner and pass order in terms of judgment and order dated 2.8.2023 passed by this court in Writ-A No.6719 of 2023 (Praveen Kumar vs. State of U.P. and others), expeditiously, preferably within a period of two months from the date of service of certified copy of this order.

**Order Date :- 26.10.2023**

Gaurav