

Court No. - 35

Case :- WRIT - A No. - 18389 of 2023

Petitioner :- Prahlad Singh

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

Counsel for Petitioner :- Sandeep Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Heard Sri Sandeep Kumar, learned counsel for the writ petitioner and Sri H.K. Shukla, learned Standing Counsel, who appears for Respondents 1, 2 and 3.

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

The case of the writ petitioner that earlier he was appointed as a Class-IV in an added institution namely S.B.J. Inter College, Bisawar, Hathras on 24.05.2007 and subsequently on 30.06.2023 by virtue of an order of Additional Director of Education (Secondary), Uttar Pradesh, he was transferred to the third respondent institution, Rashtriya Vidyalaya Inter College Goverdhan, Mathura which is occasioned by authorised controller. According to the writ petitioner, one of the assistant clerk, Shri Swamprakash superannuated on 31.07.2023 and a proposal was sent by the institution in question for promotion from Class-IV to Class-III post. It is the case of the writ petitioner that the said proposal is Annexure 2 at page 14 reference whereof has been given in para 10 wherein there are as many as Class-IV employees and barring the writ petitioner, nobody is qualified, as the writ petitioner possesses the CCC certificate which according to the writ petitioner is a mandatory qualification. He submits that his case should be considered despite the fact that in view of the provisions contained under

Chapter III Regulation 110 of the U.P. Intermediate Education Act. The seniority of the writ petitioner is to be enbloc below the incumbent therein but since nobody is qualified so he will steal march over the seniors.

Prayer in the present petition is for a direction to the second respondent to accord consideration to the claim of the writ petitioner.

Shri Shukla, learned Standing Counsel who appears for the respondent submits that the issue as to whether the writ petitioner is entitled to the said benefits needs determination at the first instance by the second respondent, as according to him the writ petitioner may approach the second respondent who shall address to the claim of the writ petitioner after putting to notice the principal, the validly elected committee of management or the authorised controller as the case may be. He further submits that he does 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 second respondent, who shall on the receipt of the same, proceed to decide the claim of the petitioner strictly in accordance with law after putting to notice the Principal/Committee of Management or the authorised controller as the case may be, the orders be passed within a period of six weeks 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 :- 2.11.2023

A. Prajapati