

Court No. - 35

Case :- WRIT - A No. - 18771 of 2023

Petitioner :- Smt. Reeta Mishra

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Pradip Kumar Singh, Niraj Kumar Dwivedi

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Sri Niraj Kumar Dwivedi, learned counsel for the writ petitioner and Sri Vinod Kumar Singh 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 fourth respondent.

The case of the writ petitioner is that her husband namely Anil Kumar Mishra was accorded compassionate appointment on 16.9.1997 owing to the death of the father of the husband of the writ petitioner and her father-in-law who was working as an Assistant Teacher. It is claimed that the husband of the writ petitioner, Anil Kumar Mishra was appointed as an Assistant Clerk in the fourth respondent institution, Rashtriya Intermediate College, Sujanganj, Jaunpur.

In para 9 of the writ petition it is asserted that the husband of the writ petitioner in the year 2015 suffered heart ailment pursuant where to he was admitted to S.G.P.G.I. Lucknow and an application was submitted on 19.4.2022 as mentioned in para 12 of the writ petition seeking voluntary retirement.

In para 14 of the writ petition it is further asserted that the writ petitioner's husband was paid salary till September, 2022 however he was restrained to function as an Assistant Clerk in the fourth respondent institution in the month of December, 2022 and according to the writ petitioner a first information report has been lodged regarding financial misappropriation against the husband of the writ petitioner and the husband of the writ petitioner is in jail since 17.3.2023 though a Misc. Bail Application No.17725 of 2023 has been filed before this Court. A charge sheet is stated to have been served upon the writ petitioner dated 27.2.2023 by the fourth

respondent wherein in the first line of the same at page 65A of the writ petition the husband of the writ petitioner has been placed under suspension w.e.f.29.1.2023.

It is also the case of the writ petitioner that the husband of the writ petitioner before being confined in jail had preferred Writ-A No.1393 of 2023 seeking mandamus directing the third respondent in the said writ petition paid salary from the month of October to December, 2022 and the said writ petition came to be disposed of on 25.1.2023.

According to the writ petitioner she is a legally wedded wife of Sri Anil Kumar Mishra and in view of the fact that her husband is in jail, she has approached this Court as subsistence allowance is to be paid to Sri Anil Kumar Mishra might be that he is in jail as the family is dependent upon Sri Anil Kumar Mishra who is confined in jail.

According to learned counsel for the writ petitioner despite various representations nothing has been done in this regard.

Learned Standing Counsel who appears for the official respondents submits that the issues with the writ petitioner seeks to raise needs determination at the first instance by the third respondent, District Inspector of School, Jaunpur and according to him the writ petitioner may approach the third respondent. He further submits that he does not propose to file any response to the writ petition.

Ordinarily, in normal circumstances the writ petition would not maintainable at the instance of the wife of Sri Anil Kumar Mishra, however in view of the fact that since March, 2023 Sri Anil Kumar Mishra is in jail and further a decision is to be taken by the third respondent regarding the entitlement of the payment of the subsistence allowance post suspension of the husband of the writ petitioner.

Thus in the peculiar facts and circumstances of the case liberty is accorded to the writ petitioner to approach the third respondent while filing a comprehensive representation along with the self-attested copy of the writ petition before the third respondent, District Inspector of School, Jaunpur who shall on the receipt of the same, put to notice to the fourth respondent and thereafter proceed to decide the claim of the petitioner strictly in accordance with law within a period of one month from the date of presentation of the certified copy of the order.

Passing of this order may not be construed to an expression that this Court has gone into the merits of the matter and has conferred the entitlement upon the writ petitioner as the writ petitioner's entitlement is to be decided strictly in accordance with rules and the regulations governing the field and also looking into the fact as to whether the writ petitioner is a legally wedded wife and there are other competing claims if any.

With the aforesaid observation, the writ petition is **disposed off**.

Order Date :- 8.11.2023

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