

Court No. - 35

Case :- WRIT - A No. - 18316 of 2023

Petitioner :- Shiv Prakash Pandey

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

Counsel for Petitioner :- Rajnish Kumar Srivastava, Siddharth Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Sri Rajesh Kumar Srivastava, learned counsel for the writ petitioner, as well as Sri P.K. Shahi, learned Addl. Chief Standing Counsel, who appears for Respondent Nos. 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 he was initially appointed on the post of Assistant Teacher on ad hoc basis and was accorded appointment order on 09.07.1995 and he was accorded joining on 24.07.1995 and an approval order has been passed by the District Inspector of Schools, Jaunpur, second respondent, whereby approval was granted on account of the vacancy, which had arisen due to promotion of one Sri Shailendra Singh, as the Lecturer. It is the further case of the writ petitioner that his services were regularized under the provisions contained under Section 33G of U.P. Act No.5 of 1982 on 30.12.2021 w.e.f. 22.03.2016. It is further the case of the writ petitioner that he was superannuated on 31.03.2023. However, now according to the writ petitioner, an order has been passed on 16.10.2023 by the Associate District Inspector of Schools, Jaunpur negating the claim of the writ petitioner on the pretext that his services stood regularized by virtue of the order dated 31.12.2021 w.e.f. 22.03.2016, so the ad hoc services cannot be given into consideration for payment of pension.

Questioning the said order, the writ petitioner has filed the present writ petition.

Learned counsel for the writ petitioner seeks to rely upon the judgment in the case of State of U.P. Vs. Sunita Sharma, Special Appeal (D) No. 181 of 2020, decided on 11.06.2020 and State of U.P. Vs. Surendra Singh and others, Special Appeal No.172 of 2023, decided on 20.04.2023 so as to contend that ad hoc services followed by regularization is to be considered for payment of

pension, as the writ petitioner has even in fact had also completed the probation period and his services were at no point of time found to be suffering from any infirmity in that regard.

Sri P.K. Shahi, learned Addl. Chief Standing Counsel, who appears for Respondent Nos. 1, 2 and 3 submits that he does not dispute the proposition of law laid down in the said judgment and according to him, the order be set aside, the matter be remitted back to the competent authority to pass the order.

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

Considering the submissions of the rival parties as well as the stands taken by them, the writ petition is being decided in the following terms: (a) The order dated 16.10.2023 passed by the Associate District Inspector of Schools, Jaunpur is set aside; (b) Matter stands remitted back to the District Inspector of Schools, Jaunpur to decide the claim of the writ petitioner strictly in accordance with law bearing in mind the judgments in the case of **Sunita Sharma** and **Surendra Singh** (*supra*) within three months from the date of production of certified copy of the order after putting to notice the fourth respondent as well as the writ petitioner.

With the aforesaid observations, the writ petition stands **partly allowed**.

Order Date :- 1.11.2023
N.S.Rathour