

Court No. - 35

Case :- WRIT - A No. - 18244 of 2023

Petitioner :- Hari Prasad

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

Counsel for Petitioner :- Ramesh Chandra Dwivedi

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

1. Heard Sri R.C. Dwivedi, learned counsel for the writ petitioner as well as Sri Shailendra Singh, learned Standing Counsel who appears for respondents No. 1 to 3.

2. In view of the order which is being proposed to be passed, notices are not being issued to the fourth and fifth respondents.

2. The case of the writ petitioner is that one Sri Patru Prasad who was appointed as class IV employee in the fifth respondent-institution, Bakhra Inter College, Bakhra, Deoria retired on 31.03.1994 and the writ petitioner claims to have been subjected to the said selections and he was issued appointment order on 30.08.1995 and he assumed charge on 01.09.1995. It is also the case of the writ petitioner since his appointment was not approved he preferred Writ Petition No. 25709 of 1996 in which the second respondent, District Inspector of Schools, Deoria was directed to decide the claim of the writ petitioner. However, the claim of the writ petitioner was for approval of the appointment was disapproved on 30.04.1997 which was subject matter of challenge in Writ Petition No. 5578 of 1998 which came to be decided by this Court on 16.07.1999 whereby the order dated 30.04.1997 was quashed and the respondents were directed to pay salary to the writ petitioner including arrears. However, according to the writ petitioner after a huge lapse of period now on 07.08.2023 the third respondent, Inspector Special Task Force Unit, Gorakhpur has proceeded to require the fourth/fifth respondent to provide inputs with regard to the appointment of the writ petitioner.

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

4. Sri R.C. Dwivedi, learned counsel for the writ petitioner submits that the said exercise is totally foreign to the service jurisprudence as the third respondent does not possess any authority to question the appointment of the writ petitioner particularly when there happens to be an endorsement of this Court in the said writ

petition.

5. Sri Shailendra Singh, learned Standing Counsel, on the other hand, submits that the order/communication issued under the signature of the third respondent does not cause any prejudice to the writ petitioner as the same only requires the Manager/Principal of the institution in question to submit relevant documents relating to the writ petitioner. He submits that whenever any proceedings will be drawn for taking any action then the same would be by authority empowered under the relevant statute and in conformity with law after providing opportunity of hearing to the writ petitioner.

6. Considering the submission of the rival parties as well as the stand taken by them, this Court declines to interfere with the communication of the third respondent dated 07.08.2023 as it neither withholds payment of salary or alters the service condition of the writ petitioner. It is further provided that in case, third respondent proceed to record any finding against the writ petitioner then the same would be a recommendation to the authority competent under the statute and it shall pass appropriate orders strictly in accordance with law after putting to notice the writ petitioner.

7. With the aforesaid observations, the writ petition stands disposed of.

8. Passing of this order may not be construed to be an expression that this Court has adjudicated on the merits of the matter.

Order Date :- 20.11.2023

Rajesh