

Court No. - 36

Case :- WRIT - A No. - 18602 of 2023

Petitioner :- Shailendra Kumar Srivastava @ Shailendra Srivastava And 2 Others

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

Counsel for Petitioner :- Pramod Kumar Vishwakarma, Raj Nath Bhakta

Counsel for Respondent :- C.S.C., Tej Bhan Singh

Hon'ble Manjive Shukla, J.

1. Heard learned counsel appearing for the petitioners, learned Standing Counsel appearing for the Respondents No. 1 & 2 and Mr. Tej Bhan Singh, learned counsel appearing for the Respondent No. 3.

2. Learned counsel appearing for the petitioners has submitted that mother of Petitioner No. 1 while working on the post of Assistant Teacher in Primary School Rasulpur, Block Macchhalishahar, District Jaunpur has died on 31.08.2005, father of Petitioner No. 2 while working on the post of Assistant Teacher in Primary School Gohana, Block Macchhalishahar, District Jaunpur has died on 07.11.2003 and father of Petitioner No. 3 while working on the post of Assistant Teacher in Primary School Dabhiya, Block Macchhalishahar, District Jaunpur has died on 17.01.2005. Learned counsel appearing for the petitioners has further submitted that on the date of death, the age of mother of Petitioner No. 1, age of father of Petitioner No. 2 and age of father of Petitioner No. 3 was less than 60 years and, therefore, petitioners are entitled for death-cum-retirement gratuity but the respondents have not paid the amount due towards death-cum-retirement gratuity till date, which is absolutely arbitrary.

3. Learned counsel appearing for the petitioners has invited attention of this Court that the controversy involved in the present matter has already been settled by this Court vide judgment and order dated 7.11.2019 passed in ***Writ-A No. 17399 of 2019 (Usha Rani Vs. State of U.P. and 6 others)***. Learned counsel appearing for the petitioners has also invited attention of this Court that pursuant to the aforesaid judgment of this Court, State Government itself has issued a Government Order dated 03.02.2023, wherein it is provided that if the death of any teacher working in the primary school takes place before he attains the age of 60 years then his legal heirs will be entitled

for payment of death-cum-retirement gratuity and, therefore, the respondents while not paying the amount of death-cum-retirement gratuity to the petitioners is working in absolutely arbitrary manner.

4. I have considered the submissions advanced by the learned counsel appearing for the petitioners and prima facie it appears that the case of the petitioners is covered by the Government Order dated 03.02.2023 and petitioners are entitled for the death-cum-retirement gratuity.

5. In view of the aforesaid reasons, this Writ Petition stands finally ***disposed of*** with a direction to Respondent No. 3 to consider the case of petitioners and if their case is covered by G.O. dated 03.02.2023 then he shall ensure the payment of the death-cum-retirement gratuity to the persons legally entitled for the same within a period of two months from the date of presentation of certified copy of this order.

Order Date :- 2.12.2023

Gaurav