

Court No. - 35

Case :- WRIT - A No. - 19099 of 2023

Petitioner :- Satish Chandra Sharma

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

Counsel for Petitioner :- Pankaj Kumar Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Heard Sri Pankaj Kumar Shukla, learned counsel for the petitioner and Sri Manoj Vashisth, learned Standing Counsel, who appears for Respondents.

The case of the writ petitioner is that he was initially appointed on the post of Driver-cum-Mistry on 02.03.1987 at Government Industrial Training Institute, Roza, Shahjahanpur and he was thereafter transferred to Firozabad while the writ petitioner was working in the post in question, a first information report was lodged on 17.11.2014 which was registered as Case Crime No. 146 of 2014 under Sections 420 and 409 IPC in Police Station, Pachokhara thereafter the writ petitioner was placed under suspension on 05.05.2015 and was taken in police custody. Subsequently, the writ petitioner was enlarged on bail on 16.07.2015 in Criminal Misc. Bail Application No. 25163 of 2015 and on the basis of the advice standard by the concerned DGC, his suspension was revoked on 27.05.2016 and he is superannuated on 31.08.2021. Since gratuity and pension was not being paid to the writ petitioner so he preferred Writ A No. 703 of 2020 which came to be disposed of directing the respondents authority to consider the claim of the writ petitioner which in turn has been negated by the third respondent, Government Industrial Training Institute, Anandpur larki, District Firozabad on 24.04.2023.

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

Learned counsel for the writ petitioner submits that might be the trial is pending consequent to the submission of the charge-sheet but once the writ petitioner post languishing in jail was placed under suspension and the suspension order was revoked and he continued to function the post in question then the said would not come in his way. He further submits that the writ petitioner is entitled to all the benefits as mere pendency of a criminal trial would not come in the way of payment of post retiral benefits. According to him, since department has not proceeded with departmental enquiry thus it is not open for the respondent to be withhold the said benefits, he seeks to rely upon the decision in the case of **State of Jharkhand & Ors. Vs. Jitendra Kumar Srivastava & Anr.** reported in **Civil Appeal No. 6770 of 2013** decided on 14.08.2013.

Shri Manoj Vashisth who appears for the respondents submits that once the writ petitioner is facing criminal trial then merely because he was placed under suspension and the suspension was revoked and the department did not proceed with the departmental proceedings, ipso facto, cannot be a ground to extend the post retiral benefits, gratuity and pension, particularly, in view of the fact that the law in this regard is well settled by Full Bench in the judgment in the case of **Shiv Gopal and Ors. Vs. State of U.P. and Ors. 2019 (5) ADJ 441** wherein in the case of **State of U.P. and Ors. Vs. Jay Prakash 2014 (1) ADJ 207.**

I have heard the learned counsel for the parties and perused the record.

The facts of the matter are not in dispute. It is not disputed by the parties that criminal trial is pending. Thus in view of the judgment in the case of **Shiv Pal** and **Jay Prakash (supra)**, the writ petitioner cannot be granted the benefit of pension and gratuity.

Accordingly, this Court is of the opinion, the writ petitioner is not entitled for any relief. However, the writ petition is thus consigned to record, leaving it open to the writ petitioner to approach the concerned Government authority for payment of the pension and gratuity, once the said criminal proceedings are decided in favour of the writ petitioner.

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

Order Date :- 1.12.2023

A. Prajapati