

Court No. - 35

Case :- WRIT - A No. - 18797 of 2023

Petitioner :- Dr. Pradeep Kumar Srivastava

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

Counsel for Petitioner :- Siddharth Khare, Sr. Advocate

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

On the oral request of the learned counsel for the writ petitioner, he is permitted to correct the array of the parties with respect to respondent No. 2.

Heard Sri Ashok Khare, Senior Advocate assisted by Siddharth Khare, learned counsel for the writ petitioner and Sri Vijay Pratap Singh, learned Standing Counsel, who appears for Respondents 1 to 4.

In view of the order, which is being proposed to be passed today, notices are not being issued to the fifth respondent.

The writ petitioner claims to have been appointed as lecturer/assistant professor in the fourth respondent institution, Sakaldiha Post Graduate College, Sakaldiha, District Chandauli on 18.08.1988 and he was awarded the designation and pay-scale of associate professor and he also claims to have been officiating as a principal in the said institution from 08.05.2013 to 25.03.2015. According to the writ petitioner, a first information report was lodged against him. As per the writ petitioner, pursuant to a criminal proceedings lodged against the writ petitioner summoning orders were issued against which the writ petitioner preferred criminal Misc. Bail Application No. 22167 of 2016 in which an order was passed for enlarging the applicant on bail with certain

conditions. It is also the case of the writ petitioner that he was placed under suspension by authorised controller of the institution in question on 23.06.2016 followed by a charge sheet dated 25.07.2016 as neither the departmental proceedings nor the criminal proceedings was being proceeded with so the writ petitioner claims to have preferred Writ A No. 3942 of 2021 which came to be disposed of with the direction to the Vice Chancellor to take appropriate decision under Section 35 (iv) of the 1973 Act which resulted in passing of an order dated 09.02.2022 by the District Inspector of Schools, Chandauli reinstating the writ petitioner in service while revoking the suspension order. It is also the case of the writ petitioner that he continued to work and he superannuated on 30.06.2023. The grievance of the writ petitioner is that despite the fact that departmental charge sheet was issued and criminal proceedings were also lodged against the writ petitioner but they are not being proceeded with, he seeks to rely upon paragraph no. 37 of the writ petition to buttress its submission.

Prayer in the present petition is for grant of additional initiative pension to the writ petitioner under the family welfare scheme by the order of the Director of Education (Higher Education), Government of Uttar Pradesh, Lucknow on 06.05.2016 and annual increment to the writ petitioner subsequent to 01.07.2014 on the basis of the recommendations of the pay-scale of the pay commission from time to time pension, gratuity, General Provident Fund, Leave Encashment, Group Insurance and other retiral benefits.

Shri Khare further submits that in case, criminal proceedings are also pending then he is entitled to be paid the provisional pension

in this regard as no penny whatsoever has been extended to him.

Shri Vijay Pratap Singh, learned Standing Counsel who appears for the respondent Nos. 1 to 4 submits that the issues with the writ petitioner seeks to raise needs determination at the first instance by the Director of Education (Higher Education), Government of Uttar Pradesh, Lucknow and the writ petitioner may represent his cause before the second respondent. He further submits that he does not propose to file any response.

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

Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being disposed off without seeking any response from the respondents granting liberty to the writ petitioner to prefer a comprehensive representation along with the self-attested copy of the writ petition before the second respondent, who shall on the receipt of the same, the second respondent shall put to notice the fourth and fifth respondent and proceeded to decide the entitlement of the writ petitioner, looking into the fact that the writ petitioner stood retired on 30.06.2023 and as per the writ petitioner neither the departmental proceedings have been proceeded with nor criminal proceedings. The said exercise is to be undertaken within a period of two months from the date of presentation of the certified copy of the order. The second respondent shall also keep in mind the fact regarding the entitlement of the writ petitioner for provisional pension also.

Needless to point out that the writ petition has been decided without seeking any response from the respondents. Thus, passing of this order may not be construed to an expression that this Court

has gone into the merits of the case.

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

Order Date :- 21.11.2023

A. Prajapati