

Court No. - 35

Case :- WRIT - A No. - 19308 of 2023

Petitioner :- Vinod Kumar

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

Counsel for Petitioner :- Arti Raje

Counsel for Respondent :- C.S.C.,A.K.S.Parihar

Hon'ble Vikas Budhwar,J.

1. Heard Ms. Arti Raje, learned counsel for the petitioner, Sri Pradeep Kumar Sahi, learned Additonal Chief Standing Counsel who appears for the respondents no. 1, 3 and 4 and Sri Parihar for respondent no. 2.

2. In view of the order which is being proposed to be passed notices are not being issued to the respondent no. 5.

3. The case of the writ petitioner is that pursuant to the Advertisement No. 1 of 2002 published by the respondent no. 2 recruitment exercise was conducted for filling up the post of TGT L.T. Grade and on some other posts.

4. The writ petitioner claims to have been selected and placement order was issued on 17.11.2004, however, Principal Hathi Barni Intermediate College, Barni, Varanasi refused joining relying upon Annexure no. 3 at page 19A, reference whereof has been given in para 9. It has been argued that the District Inspector of Schools, Varanasi issued a communication dated 7.2.2005 to the respondent no. 2, Secretary U.P. Secondary Education Services Selection Board, Allahabad that the writ petitioner could not be accord joining for some reasons. Thereafter, the writ petitioner claims to have represented his cause before respondent no. 2 on 10.2.2005 for according joining in some other institution. Thereafter, the placement has been granted to the writ petitioner in the respondent no. 4 Institution. The writ petitioner claims to have issued an appointment order dated 26.5.2005, however, in the meantime, a notification dated 23.8.2005 has been issued enforcing New Pension Scheme with effect from 1.4.2005.

5. Grievance of the writ petitioner is that she is entitled to considered under the Old Pension Scheme.

6. Learned counsel for the writ petitioner seeks to rely upon the decisions given in ***Writ-A No. 67274 of 2015 (Nirupama Malviya Vs. State of U.P. And 5 Others) decided on 19.10.2023 and Writ-A No. 18197 of 2021 (U.P. Lekhpal Sangh Through Its Treasurer Vinod Kumar Kashyap Vs. State of U.P. And 7 Others) decided on 26.10.2023.***

7. Learned Standing Counsel as well as Sri Parihar who appears for respondent no. 2 submits that at the first instance the issue needs determination by District Inspector of Schools, Allahabad, who shall address to the claim of the writ petitioner.

8. Having heard learned counsel for the parties as well as stand taken by them, the writ petition stands disposed of granting liberty to the writ petitioner to approach respondent no. 3/District Inspector of Schools, Prayagraj/Allahabad, who on the receipt of the same shall put to notice respondent no. 5 and thereafter, proceed to decide the entitlement of the petitioner bearing in mind the judgments passed in Writ-A No. 67274 of 2015 (Nirupama Malviya Vs. State of U.P. And 5 Others) decided on 19.10.2023 and Writ-A No. 18197 of 2021 (U.P. Lekhpal Sangh Through Its Treasurer Vinod Kumar Kashyap Vs. State of U.P. And 7 Others) decided on 26.10.2023, within a period of three months from the date of production of certified copy of this order.

Order Date :- 30.11.2023

S.A.