

Court No. - 35

Case :- WRIT - A No. - 19010 of 2023

Petitioner :- Shyam Sundar

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

Counsel for Petitioner :- Bipin Kumar Tripathi, Shubham

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Shri Bipin Kumar Tripathi, learned counsel for the writ petitioner as well as Shri H.K. Shukla, learned Standing Counsel for the respondents.

The case of the writ petitioner is that he was appointed as a peon in Shri Nehru Inter College, Amahiya, Gorakhpur on 16.08.2003 and he was placed under suspension for the period from 16.11.2015 to 29.02.2016. It is also the case of the writ petitioner that a criminal case was lodged against him on 19.09.2015 being FIR No. 270 of 2015 under Sections 498A, 304B IPC and 3/4 D.P. Act. According to the writ petitioner, the trial is going on, however, he has not been made admissible to the benefits of Second Assured Career Progression (2nd ACP) and other benefits including the salary and the benefits for the period when he was placed under suspension.

Shri H.K. Shukla, learned Standing Counsel has produced before this Court the Government order dated 24.03.2015 so as to contend that the said Government order contemplates a situation wherein once a criminal trial is pending according to which ACP cannot be made admissible until and unless the trial is concluded in favour of the respective incumbent. He further submits that in case the trial is concluded in favour of the writ petitioner then the writ petitioner can approach the respondents who shall consider the claim of the

writ petitioner from the entitlement.

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 consigned to record while declining the relief sought at this stage granting liberty to the writ petitioner to approach the competent authority for grant of the said benefits when the trial concludes in favour of the writ petitioner and the Court has no reason to disbelieve the writ petitioner and in accordance with law.

According, the writ petition stands **consigned to record**.

Order Date :- 4.12.2023

A. Prajapati