

Court No. - 35

Case :- WRIT - A No. - 19208 of 2023

Petitioner :- Hari Shankar Tiwari

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Gulab Chandra Tiwari

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

On the request of learned counsel for the writ petitioner, he is permitted to implead the Deputy Director of Education Secondary Varanasi region Varanasi as third respondent and Joint Director of Education Varanasi region Varanasi as fourth respondent, and Manager Nagrik Inter College Janghai, Jaunpur as fifth respondent.

The case of the writ petitioner is that he was initially appointed as Assistant Teacher in the fifth respondent institution on 29.04.1995. His services stood approved and stood regularized in view of Section 33G of U.P. Act No.5 of 1982 on 30.12.2020 with effect from 22.03.2016. He superannuated on 31.03.2021. However, he has not been paid pension including the services undergone earlier on adhoc basis and the same has been negated on 21.09.2023 by the third respondent. Prayer in the present petition is for quashing the order dated 21.09.2023.

Learned counsel for the writ petitioner has argued that the adhoc services undergone are liable to be considered for payment of pension particularly when it was followed by regularization and the writ petitioner completed the probation period successfully. He seeks to rely upon the judgment of **Sunita Sharma Vs. State of U.P. & 5 Others, Writ A No.25431 of 2018 decided on 20.12.2018.**

Learned Standing counsel who appears for respondent nos. 1 to 4 on the other hand submits that in the wake of the said judgments so relied upon by the learned counsel for the writ petitioner matter needs re-consideration by the third respondent. Deputy Director of Education Madyamik 5th Mandal, Varanasi. Thus, according to him the order be set aside and the matter be remitted back to pass a fresh order.

Considering the submissions of the rival parties stand taken by them the order dated 21.09.2023 passed by the third respondent is

set aside. Matter stands remitted back to the third respondent to pass a fresh order after putting to notice to fifth respondent and the writ petitioner strictly in accordance with law within a period of three months from the date of production of a certified copy of this order.

Order Date :- 30.11.2023

A Gautam