

Court No. - 35

Case :- WRIT - A No. - 19178 of 2023

Petitioner :- Mohd.Mustaqeem Khan

Respondent :- Union Of India And 2 Others

Counsel for Petitioner :- Najam Uz Zaman Khan

Counsel for Respondent :- A.S.G.I.,Abrar Ahmad,Shashank Shekhar Singh

Hon'ble Vikas Budhwar,J.

Heard Sri Najam Uz Zaman Khan, learned counsel for the writ petitioner, Sri Abrar Ahmad for Respondent No.1 and Sri Shashank Shekhar Singh, who appear for Respondent Nos. 2 and 3.

On the oral request of the writ petitioner, he is directed to implead Vice Chancellor, A.M.U., Aligarh during the course of the day.

The case of the writ petitioner is that he was deployed as a Daily Wager in Hadi Hasan Hall A.M.U. Aligarh on 01.09.2009, approval was granted by the third respondent, Assistant Registrar (Admin-NT), Aligarh Muslim University, on 25.11.2009 and an office order was issued on 30.11.2009. He claims that on 10.08.2011, a communication was issued by the third respondent, Assistant Registrar (Admin-NT), Aligarh Muslim University, whereby permission has been accorded for continuance of the writ petitioner for a period of 6 months or till the replacement of Mr. Zaheer Ahmad, Electrician-cum-Tubewell Operator (Retired) is made w.e.f. 01.09.2009 subject to termination at the time without notice or assignment of reason. It is also the case of the writ petitioner that on the recommendation of the Chairman, Department of Community Medicine, the Vice-Chancellor of the University had approved the regular appointment of the writ petitioner in the Department of Community Medicine against the post of Fitter-cum-Mistry, where the writ petitioner claims to be working as Daily Wager in the pay-band of Rs.5200-20200 with Grade Pay 2000 upto 30.06.2015, or the post is filled up through selection committee or until further orders.

As per the writ petitioner, his last extension was made till 31.12.2022 by virtue of the Office Memorandum dated 14.12.2021. A show-cause notice is stated to have been issued to the writ petitioner regarding damage of installed false ceiling, to which the writ petitioner claims to have tendered its reply. On 25.05.2022, a warning letter is stated to have been issued to the

writ petitioner. The writ petitioner further claims that he had preferred a representation before the Chairman, Department of Community Medicine, JNMC, A.M.U. with a request that a recommendation be made for extension of the engagement, followed by another representation dated 25.01.2023 before the second respondent, Registrar, A.M.U. and another on 17.02.2023 and 08.06.2023. However, according to the writ petitioner, the engagement of the writ petitioner has not been extended by virtue of the order dated 19.07.2023 of the third respondent, Joint Registrar (Admin-NT), A.M.U. Aligarh on the pretext that the work and the conduct report of the writ petitioner is not satisfactory and Head of Department had not granted the further extension.

Questioning the said order, the writ petitioner has preferred the present writ petition with a further prayer to the second respondent, Registrar, Aligarh Muslim University, Aligarh to extend the engagement of the writ petitioner and restrained the respondents from taking coercive measures against the petitioner. The learned counsel for the writ petitioner seeks to rely upon the judgment in Writ-A No. 6027 of 2023, Shekhar Gupta Vs. State of U.P. decided on 18.11.2023.

Sri Shashank Shekhar Singh, learned counsel for the respondents-University has invited the attention of the Court towards the Appeal preferred by the writ petitioner on 02.09.2023 purported to be under Section 36-B before the Chairman, Executive Council, A.M.U., Aligarh. He submits that in view of the provisions contained under Section 36-B of the A.M.U. Act, 1920, the writ petitioner has an alternate efficacious remedy to approach the Vice-Chancellor of the A.M.U. Aligarh for redressal of his grievances, wherein he can question the decision of the third respondent, Joint Registrar (Admin-NT), A.M.U. Aligarh dated 19.07.2023. He submits that as per the writ petitioner, he is not working post 31.12.2022 and as per the order dated 19.07.2023, which is subject matter of challenge, request of the writ petitioner for continuing with effect from 01.01.2023 was denied. He submits that the writ petition has been presented before this Court on 08.11.2023, thus it would be appropriate for the writ petitioner to avail the remedy as provided under the Statute under Section 36-B before the Vice-Chancellor of the Aligarh Muslim University, Aligarh raising all legal contentions.

Having heard learned counsel for the parties, this Court is of the opinion that since according to the respondents there exists an alternate efficacious remedy under Section 36-B of the Aligarh

Muslim University, Aligarh, thus the writ petitioner may prefer an appeal before the Vice Chancellor of the Aligarh Muslim University, Aligarh within a period of 10 days from today and on the presentation of the same, the Vice-Chancellor of the Aligarh Muslim University, Aligarh shall decide the appeal within a period of one month thereafter, strictly in accordance with law, of course bearing in mind the legal contentions so raised by the writ petitioner and also regarding applicability of the decision in the case of *Shekhar Gupta (supra)*.

With the aforesaid observations the writ petition stands **disposed off**.

Order Date :- 4.12.2023

N.S.Rathour