

Court No. - 5

Case :- WRIT - C No. - 40785 of 2023

Petitioner :- Smt. Surjeet Kaur

Respondent :- Presiding Officer And Another

Counsel for Petitioner :- Lalji Yadav, Yashpal Yadav

Counsel for Respondent :- Vivek Kumar Rai, Nitin Chandra Mishra

Hon'ble Piyush Agrawal, J.

Heard learned counsel for the petitioner and learned standing counsel for State - respondents.

At the very outset, Shri Nitin Chandra Mishra, learned counsel for respondent no. 2 raises a preliminary objection with regard to maintainability of the writ petition on the ground that this is the third writ petition on the same cause of action filed by the petitioner.

This writ petition has been filed for the following relief:-

"I. Issue an appropriate writ, order or direction in the nature of mandamus and direct respondent Presiding Officer/Deputy Labour Commissioner, Labour Court, Gorakhpur Region, Gorakhpur and D.D.U. Gorakhpur University, Gorakhpur to consider and ensure reinstatement of the petitioner in service as Office Assistant with all consequential benefits in pursuance of award dated 02.11.2018 within a specified time-frame;

II.

III."

From the perusal of the records, it transpires that earlier, the petitioner filed Writ C No. 2857 of 2023 with the following prayer:-

"I. Issue an appropriate writ, order or direction in the nature of mandamus and direct respondent Presiding Officer/Deputy Labour Commissioner, Labour Court, Gorakhpur Region Gorakhpur and D.D.U. Gorakhpur University, Gorakhpur to ensure reinstatement of the petitioner in service as Officer Assistant with all consequential benefit in pursuance of the award dated 02.11.2018 within a specified time frame;

II.

III."

Thereafter, the petitioner again filed Writ C No. 2864/2023, which was disposed of by this Court vide order dated

08.02.2023 as withdrawn with liberty to file a fresh petition with better particulars. Therefore, this writ petition is a third writ petition for the same cause of action.

Confronted with the said fact, learned counsel for the petitioner submits that vide order dated 08.02.2023, the petitioner was granted liberty to file another writ petition and therefore, this writ petition is not a successive writ petition.

On a perusal of the prayers made in the writ petitions, as quoted in the foregoing paragraphs, it transpires that in sum & substance, the prayer is that the petitioner may be reinstated pursuant to the award. Therefore, this is the third writ petition on the same cause of action, which cannot be permitted.

In view of the above, the writ petition is dismissed with a cost of Rs. 10,000/-, which shall be deposited by the petitioner within a period of two weeks from today with the Allahabad High Court Legal Services Committee.

In case the cost as imposed by this Court is not deposited within the time granted by this Court, the same shall be recovered from the petitioner as arrears of land revenue by the authority concerned.

List the matter on 04.01.2024 in Chamber, by which time an affidavit of compliance of deposit of cost shall be filed by the petitioner.

Order Date :- 5.12.2023
Amit Mishra