

Court No. - 35

Case :- WRIT - A No. - 19520 of 2023

Petitioner :- Rajeev Kumar Jain

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Ajay Rajendra

Counsel for Respondent :- C.S.C

with

Case :- WRIT - A No. - 19342 of 2023

Petitioner :- Vinod Kumar

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Ajay Rajendra

Counsel for Respondent :- CSC

Hon'ble Vikas Budhwar,J.

1. Heard Shri Ajay Rajendra, learned counsel for the writ petitioner in both the writ petitions as well as Shri Shailendra Singh, learned Standing Counsel who appears for respondent Nos. 1 to 3.

2. Since common question of facts and law are involved in Writ - A No. - 19520 of 2023 Rajeev Kumar Jain Vs. State Of U.P. And 5 Others (in short 'leading writ petition') and Writ - A No. - 19342 of 2023 Vinod Kumar Vs. State Of U.P. And 5 Others (in short 'connected writ petition'), thus, with the consent of the parties, the writ petition is being consolidated and decided by a composite order.

3. In view of the order, which is being proposed to be passed today, notices are not being issued to the fourth to sixth respondents.

4. The counsel for the rival parties have made a joint statement at

bar that they do not propose to file any further affidavits thus with the consent of the parties, writ petitions are being decided at the fresh stage.

5. The case of the writ petitioner is that the writ petitioner in the leading writ petition was working in the Hindu College, Moradabad as a lecturer Library/Associate Professor in pay scale of Rs. 37,400-67,000/- in academic grade of Rs. 9,000/- by virtue of the order dated 03.04.2019. The writ petitioner claims that his salary was fixed on 17.05.2022 by the respondent No. 2 in the pay-scale of Rs. 8,000/- to 13,500/- A.G.P. 6,000/- thereafter his salary was revised from time to time pursuant to the sixth and seventh pay commission since the date of birth of the writ petitioner in the leading writ petition on 10.08.1962 thus in view of the Government order dated 13.05.2009 issued by the State Government is entitled to his age of attainment at 62 years on 09.08.2024. As per the writ petitioner, on 11.03.2015, a Government order had been issued whereby designation of the Librarians of State Universities, Government Degree Colleges and aided degree colleges was transformed as Lecturer Library and further the State Government has issued a Government order which was made admissible to 31.08.2016 and the writ petitioner claims that he had enjoined the Lecturer Library and made the payment of the same, however without there being any order whatsoever now he has being stopped to work from June 2023 onwards and his salary has been stopped.

Insofar as the connected writ petition is concerned, the same has been preferred by Shri Vivek Kumar, More or less, the same has been accepted with the fact that the writ petitioner is working as Lecturer Librarian, K.G.K. (PG) College, Moradabad and he is

entitled to continue on the basis of the said Government order till attainment of the age of 62 years. He is also claimed to have been accorded the benefits of Lecturer Library/Associate Professor in view of the order which is being passed by the third respondent, The Regional Higher Education Officer, Bareilly he has been paid Rs. 37,400-67,000 GP-9000 in the grade pay of vide letter dated 31.03.2022 and he also claims that he has been accorded benefits in this regard.

Learned counsel for the writ petitioner not only places reliance upon the Government orders as referred to above but also the Division Bench judgment of this Court in the case of Writ A No. 49118 of 2016 (Dr. Ram Avtar Sharma Vs. State of U.P. and others) wherein the said benefits were made available to the writ petitioner therein who is similarly situated and further the writ petitioner also belongs to the teaching staff. Both the writ petitions are for continuance on the post in question till the attainment of the age of 62 year with a consequential benefits.

This Court entertained the leading writ petition on 02.12.2023 and tagged the said writ petition with the connected writ petition in which the following orders dated 30.11.2023 were passed:

"The contention of the learned counsel for the writ petitioner is that as per the Government order dated 13.05.2009 the retirement age of the librarian's is to be 62 years instead of 60 years and his date of birth is 21.10.1963. He is to retire after attaining 60 years of age on 30.10.2023 and after attaining 62 years on 30.10.2025.

According to the learned counsel counsel for the writ petitioner the institution in question has made a communication to Regional Higher Education Officer, Bareilly on 01.11.2023 seeking clarification.

On the request of Shri Awadesh Kumar, learned Standing Counsel, put up this

case on 04.12.2023 as fresh at 02.00 P.M."

Today Shri Shailendra Singh, learned Standing Counsel who appears for the State respondents submits that contention which the writ petitioner seeks to raise needs determination at the first instance by the Director Higher Education, Higher Education Directorate, Prayagraj and according to him, he shall go into the said issues after putting to notice the fifth and sixth respondent. He further argues that the reliance upon the Government orders and the judgment of this Court is concerned, their entitlement to continue till the age of 62 years would be addressed in right perspective.

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 disposed off in the following manner:

The writ petitioner shall raise their claim before the Director Higher Education, Higher Education Directorate, Prayagraj on 13.12.2023.

The Director Higher Education, Higher Education Directorate, Prayagraj shall fix a date in the third week of December and put to notice the institution whereat the writ petitioner claims to have been working thereafter fix a date fifth week of December 2023 and pass an order in the week second week of 2024 and orders passed by the Director Higher Education, Higher Education Directorate, Prayagraj shall be a reasoned speaking order taking into the consideration, the Government orders and the judgment

should be relied upon the writ petitioner.

With the aforesaid observation, the writ petition is **disposed off**.

Order Date :- 4.12.2023

A. Prajapati