

Court No. - 35

Case :- WRIT - A No. - 20378 of 2023

Petitioner :- Dr Pushpendra Kumar And 10 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Daya Shanker Yadav,Sr. Advocate

Counsel for Respondent :- C.S.C.,Rohit Pandey

Hon'ble Vikas Budhwar,J.

1. Heard Sri Radha Kant Ojha, learned Senior Counsel assisted by Sri D.S. Yadav, learned counsel for the writ petitioners who are 11 in number as well as Sri Ratan Deep Mishra who appears for Respondent No. 1 and Sri Rohit Pandey, who appears for Respondents No. 2 to 4.

2. The case of the writ petitioner is that there happens to be a University by the name of Uttar Pradesh, University of Medical Science, Saifai, Etawah having five faculties; Faculty of Medical, Faculty of Dental, Faculty of Nursing, Faculty of Pharmacy and Faculty of Paramedical. Except the Faculty of Pharmacy other faculties are duly affiliated with Chatrapati Shahuji Maharaj, University Kanpur whereas the Faculty of Pharmacy is affiliated with Dr. A.P.J. Abdul Kalam Technical University, Lucknow.

3. As per the writ petitioner the minimum standard of the aforesaid faculty is governed by Medical Council of India and now it is redesignated as National Medical Commission. Similarly the Faculty of Dental is governed by Dental Council of India (D.C.I.), Faculty of Nursing is governed by Indian Nursing Council and the Faculty of Pharmacy is governed by Pharmacy Council of India.

4. The writ petitioners claim to have been appointed in the aforesaid medical college as Assistant Professor in the year 2015 and thereafter post enactment of the U.P. Act No. 15 of 2016 the aforesaid medical college has been transformed into the University by the name of Uttar Pradesh University of Medical Science, Saifai, Etawah. In para 11 of the writ petition various factual assertions have been made.

5. It is also the case of the writ petitioners that forced enactment of U.P. Act No. 15 of 2016 insertion of Section 48 the service condition of the employees of the incumbent of the University will

be as per the terms and the conditions of the employees of the SGPGI, Lucknow, however, in SGPGI, Lucknow there is no department of pharmacy.

6. While driving force on the averments contained in para 13 of the writ petition, it is being sought to be argued that as per Section 21(8) of the U.P. Act No. 15 of 2016, there is provision of promotion of the University employees of the post of Associate Professors and Professors. It is also the case of the writ petitioner that the said university has adopted the rule of SGPGI and SGPGI is following the rule of all India of AIIMS. Pleadings further reveal that writ petitioner has asserted that though there is general promotion provision, however, in the education department it has been decided that there is stagnation in promotion and shortage of posts, consequently, a programme in the name of Career Advancement Scheme has been sponsored by the UGC in the institution in question.

7. Learned counsel for the writ petitioner thus submits that post completion of three years of service they are to be promoted on the higher post as per the hierarchy but their claims have not been considered.

8. Prayer in the present petition is for a mandamus directing the respondent University from the post of Assistant Professor to the post of Associate Professor from the due date i.e. referable to the year 2018-19.

9. Today, when the matter was taken up Sri Rohit Pandey who appears for the Respondent University has produced before this Court a letter dated 22.11.2023 under the signatures of the Registrar of the University addressed to the Ist Respondent, Principal Secretary, Medical Education, U.P. Shashan Lucknow so as to contend that the matter stands referred to the State Government as there are financial implications in that regard.

10. Sri Ratan Deep Mishra, learned Standing Counsel on the other hand submits that since according the Respondent University the matter has been referred to by virtue of the said communication on 23.11.2023, thus the first respondent shall take a decision with due promptness.

11. Considering the submissions of the rival parties as well as the stand taken by them, Sri Ratan Deep Mishra as well as Sri Rohit Pandey submits that no fruitful purpose will be served in detaining the writ petition on board as the State Government shall take an

action in that regard.

12. Considering the submissions of the rival parties and in view of the stand taken by them, the writ petition stands disposed of requiring the first respondent to ensure to take appropriate decision in the light of the communication dated 23.11.2023, which has been placed before this court within a period of three months from the date of the production of a certified copy of this order.

13. With the aforesaid observations, the writ petition stands **disposed of**.

14. The copy of the communication dated 23.11.2023 (Appendix-A), as referred above, shall be served upon Sri Ratan Deep Mishra for due compliance.

Order Date :- 8.12.2023

Kumar Manish.