

Court No. - 35

Case :- WRIT - A No. - 19723 of 2023

Petitioner :- Smt. Sandhya Dixit

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Awadh Behari Singh

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

1. On the oral request of the learned counsel for the writ petitioner he is permitted to implead Deputy Director of Education, Aligarh Region, Aligarh as the sixth respondent.

2. Heard Sri Awadh Behari Singh, learned counsel for the petitioner and Sri Gaya Prasad Singh learned Standing Counsel, who appears for Respondents 1 to 4.

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

4. The case writ petitioner herein had filed Writ A No. 22341 of 1996 for a payment of salary. In the said writ petition an interim order was accorded to the writ petitioner on 25.07.1996 however the said to be dismissed on 03.09.2013 against which an intra court appeal was preferred, special appeal No. 1302 of 2013 which came to be allowed on 11.07.2023 wherein in Para 33 and Para 36 the following observations were made.

33. No dispute exists as to availability of sanctioned post etc. In view of the above, in the peculiar facts of the case, without adjudicating the conflicted objection raised by the State as to existence or otherwise of the order dated 09.08.1996, equity commends, and we deem it fit to issue a writ of Mandamus to the respondent authorities to pay the salary to the appellants-petitioners treating them to be regularly appointed teachers under the grant-in-aid scheme, as applicable to primary sections attached to recognized High School, under the grant-in-aid scheme of the State Government.

34. The appellants-petitioners would also be entitled to all consequential benefits that may arise to them, consequentially. It is further provided that all due payments be made to the appellants-petitioners within a period of three months from today.

35. The appeal is accordingly, allowed.

36. No order as to costs.

5. According to the writ petitioner though one Smt. Kanchan Chakarwati had preferred Writ A No. 13131 of 2021 however she was granted the benefit of

pension but claim of the writ petitioner had not been considered on the premise that the writ petitioner does not possess any order of the Court.

6. Prayer in the present petition is for the payment of pension.

7. Sri Gaya Prasad Singh, learned Standing Counsel submits that the issue as to whether the writ petitioner is entitled to pensionary benefits in the light of the order dated 11.07.2023 passed in Special Appeal No. 1302 of 2013 needs determination at the first instance by the sixth respondent Deputy Director of Education, Aligarh Region, Aligarh.

8. Having heard the learned counsel for the parties and the stand taken by them the writ petition stands disposed of granting liberty to the writ petitioner to approach the sixth respondent who shall consider the claim of the writ petitioner for payment of pensionary benefits in the light of the judgment passed in Special Appeal No. 1302 of 2013 decided on 11.07.2023 as well as order dated 11.07.2023 passed in Writ A No. 13131 of 2021 in the case of Kanchan Chakravorty within a period of two months from the date of the production of the certified copy of this order after putting to notice to the writ petitioner and the fifth respondent..

9. With the aforesaid observation this writ petition is ***disposed off***.

Order Date :- 29.11.2023

Suraj Srivastav