

Court No. - 35

Case :- WRIT - A No. - 19799 of 2023

Petitioner :- Sumer Nath Rai

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

Counsel for Petitioner :- Tanuj Shahi, Kushmondeya Shahi

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

1. Heard Sri Tanuj Shahi, learned counsel for the writ petitioner and Sri Ratan Deep Mishra, learned Standing Counsel who appears for respondents No. 1 to 4.

2. In view of the order which is being proposed to be passed, notice is not being issued to the fifth respondent.

3. The case of the writ petitioner is that he was appointed as Assistant Teacher in L.T. Grade on 23.08.1991 in the fifth respondent-institution when approval was not accorded he preferred a writ petition thereafter, on 01.09.1997 an order is stated to have been passed according approval to the writ petitioner. Thereafter, on 22.04.2000 a direction was issued by the District Inspector of Schools for payment of salary. The writ petitioner claims that though he was getting the current salary but he was not paid salary from 01.12.1997 to 30.04.2005 so he preferred Writ Petition No. 1396 of 2009 which came to be disposed of on 22.01.2009 thereafter, on 01.02.2016 the writ petitioner was though declared to be surplus but he was made entitled to salary and with regard to payment of salary from June 2010 to February, 2015, he preferred Writ A No. 11572 of 2022.

4. The grievance of the writ petitioner is that his services are to be considered for regularization under Section 33G of the U.P. Act No. 5 of 1982 and he is entitled to payment of salary from 01.09.1997 to 30.04.2005 and June 2010 to February, 2015 and also post retiral benefits consequent to his retirement on 31.03.2023 with effect from 01.04.2023.

5. Sri Ratan Deep Mishra, learned Standing Counsel who appears for the State-respondents submits that the issues which the writ petitioner seek to raise needs determination at the first instance by the second respondent, Regional Joint Director of Education

(Secondary), Azamgarh, thus, the writ petitioner may represent his cause before the second respondent. He further submits that he does not propose to file any response to the writ petition.

6. Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed of granting liberty to the writ petitioner to approach the second respondent, Regional Joint Director of Education (Secondary), Azamgarh by filing a comprehensive representation along with self attested copy of the writ petition and on the receipt of the same the second respondent shall put to notice the fifth respondent and thereafter decide the claim of the writ petitioner within a period of three month from the date of production of certified copy of the order. If the second respondent is of the opinion that the matter needs to be decided by any other authority then the papers be transmitted to it.

7. Needless to point out that passing of this order may not be construed to be an expression that this Court has adjudicated on the merits of the matter.

Order Date :- 29.11.2023

Rajesh