

Court No. - 35

Case :- WRIT - A No. - 20094 of 2023

Petitioner :- Drigpal @ Dragpal

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

Counsel for Petitioner :- Sanjay Kumar Kushwaha, H.K Asthana

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Sri H.K Asthana, learned counsel for the petitioner as well as Sri Pradeep Kumar Shahi, learned Additional Chief Standing Counsel, who appears for respondents 1 to 5.

In view of the order, which is being proposed to be passed today, notices are not being issued to the 6th respondent.

The case of the writ petitioner is that he was initially appointed as Assistant Teacher in C.T. Grade on 20.3.1989 approval whereof was accorded by the Competent Authority thereafter his services were regularised w.e.f. 6.4.1991 as Assistant Teacher in C.T. Grade. The writ petitioner claims that he was awarded L.T. Grade also w.e.f. 28.3.2004 and consequent to the occurring of the vacancy on the post of Lecturer (History/Civics) on 30.6.2023, a resolution was passed by the Committee of Management in pursuance whereof he was promoted on the post of Lecturer (History/Civics) on 17.1.2005. It is also the case of the writ petitioner that the post of Principal fell vacant on 30.6.2013 pursuant to the resolution of Committee of Management, he was allowed to officiate in the post in question w.e.f. 1.7.2013, he was also assigned to pay scale and he was retired on 31.3.2023 but by virtue of the computation charge dated 15.5.2023 his pension has been made admissible as a Lecturer and not as an Officiating Principal. He seeks to rely upon the decision in the case of **Surendra Prasad Agnihotri v. State of U.P. 2010 0 Supreme (All) 196.**

Sri Pradeep Kumar Shahi, learned Additional Chief Standing Counsel submits that he does not dispute the legal proposition that the writ petitioner is entitled to the pension on the last pay drawn i.e. of Officiating Principal however he submits let a decision be taken by the Deputy Director of Education (Secondary), 12th Region, Moradabad, third respondent.

Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being disposed of without seeking any response from the respondents granting liberty to the writ petitioner to prefer a comprehensive representation along with the self-attested copy of the writ petition before the third respondent, who shall on the receipt of the same, put to notice to the sixth respondent and thereafter proceed to decide the claim of the petitioner strictly in accordance with law in principle the judgment in the case of **Surendra Prasad Agnihotri (Supra)** within a period of six weeks from the date of presentation of the certified copy of the order. The computation dated 15.5.2023 shall be subject to the final orders to be passed post decision of this court.

Needless to point out that the writ petition has been decided without seeking any response from the respondents. Thus, passing of this order may not be construed to an expression that this Court has gone into the merits of the case.

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

Order Date :- 5.12.2023

piyush