

Court No. - 35

Case :- WRIT - A No. - 20242 of 2023

Petitioner :- Jitendra Ram

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Adarsh Singh, Indra Raj Singh

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

1. Heard Sri Adarsh Singh, learned counsel for the writ petitioner as well as Dr. Santosh Kumar Shukla, learned Additional Chief Standing Counsel who appears for respondents No. 1 to 3.

2. The case of the writ petitioner is that he had earlier filed Writ A No. 34867 of 2006 which came to be decided on 01.05.2019 while passing the following orders.-

"Heard learned counsel for the parties.

Petitioner came to be appointed Lecturer (Economics) under the Scheduled Caste (SC) category pursuant to an Advertisement issued by the U.P. Secondary Education Service Board Allahabad in 2003. On the direction of the Joint Director of Education, petitioner came to be absorbed as Lecturer (Economics) in Mahamana Malviya Inter College, Khekra, District Baghpat by the order dated 21 January 2006. Petitioner, pursuant thereof, joined the post, however, due to an interim order dated 22 February 2006 passed in Ram Niwas Sharma Versus State of U.P. and others (Writ-A No. 9632 of 2006), the District Inspector of Schools, Baghpat, by the impugned order dated 26 April 2006 kept the appointment/absorption of the petitioner in abeyance.

Learned counsel for the petitioner submits that after the said order and the consequential order dated 19/30 May 2006 passed by the Management, the petitioner had not performed his duty as Lecturer (Economics). The writ petition (Ram Niwas Sharma (supra) was heard along with the instant petition and other companion writ petitions which came to be allowed vide judgment and order dated 1 May 2019 setting aside the appointment/absorption of the petitioner as Lecturer (Economics) in the institution of the fifth respondent.

Learned counsel for the petitioner at this stage does not dispute the legal proposition that the petitioner could not have been absorbed/appointed against the post of Lecturer falling under promotion quota.

In the circumstances, learned counsel for the petitioner submits that the writ petition can be disposed of in terms of the decision rendered by this Court in Om Prakash Yadav Versus State of U.P. and another (Writ-A No. 17329 of 2012) decided on 23 February 2018.

Learned counsel for the State-respondent, including the fifth and sixth respondents have no objection.

The writ petition is allowed in terms of Om Prakash Yadav Versus State of U.P. and another (Writ-A No. 17329 of 2012) decided on 23 February 2018.

Accordingly, the petitioner shall be given appointment of Lecturer (Economics) with continuity in service but without seniority or backwages. Such appointment shall relate back to date of final

selection and the earlier appointment of the petitioner only for the purpose of continuity in service for fixation of Pay Scale and for computing the service as qualifying service for pension, and such appointment shall not in any manner disturb seniority of Lecturers already selected and appointed. The petitioner herein shall be given placement/appointment within a period of three months by the Selection Board. If need be supernumerary post of Lecturer (Economics) be created for the petitioner by the Government.

No cost."

3. Thereafter, the writ petitioner was accorded appointment on 14.01.2020, however, when the writ petitioner staked his claim for pay fixation and other consequential benefits, the same remains unheeded.

4. Dr. Santosh Kumar Shukla, learned Additional Chief Standing Counsel, on the other hand, submits that the issue which the writ petitioner seeks to raise needs determination at the first instance by the second respondent, District Inspector of Schools, Baghpat, he submits that the writ petitioner may represent his cause before the second respondent who shall take appropriate decision in that regard. He does not propose to file any response to the writ petition.

5. To such a submission, learned counsel for the petitioner has no objection and he gracefully accepts the same.

6. 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 second respondent, District Inspector Schools, Baghpat, who shall on the receipt of the same, the second respondent shall decide the entitlement of the petitioner strictly in accordance with law within a period of three months from the date of production of the certified copy of the order.

7. With the aforesaid observations, the writ petition stands disposed of.

Order Date :- 13.12.2023

Rajesh