

Court No. - 35

Case :- WRIT - A No. - 20169 of 2023

Petitioner :- Jai Prakash Singh

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

Counsel for Petitioner :- Rajnish Kumar Srivastava, Siddharth Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Sri Rajnish Kumar Srivastava, learned counsel for the petitioner and Sri Saurabh, the learned Standing Counsel, who appears for Respondents 1, 2 and 3.

In view of the order, which is being proposed to be passed today, notices are not being issued to the 4th respondent.

The case of the writ petitioner is that in order to fill up a short-term vacancy on the post of Assistant Teacher LT Grade due to promotion of one Sri Raghuraj Singh who was working on the ad hoc post of Lecturer, the C/M. Maharana Pratap Inter College Ram Dayalgarh, Jaunpur proceeded to make selections pursuant where to the writ petitioner claims to have been selected, approval was stated to have been accorded on 25.07.1995 by the District Inspector of Schools, Jaunpur. It is also the case of the writ petitioner that the services stood regularized in the wake of the provisions contained under Section 33-G of the U.P. Act No.5 of 1982 w.e.f. 22.03.2016. The writ petitioner claims to have retired on 31.03.2022. Since he was not made admissible to the payment of pension, he preferred Writ Petition No. 8017 of 2022, which came to be disposed of on 21.07.2022 requiring the competent authority to take a decision. Now the decision has been taken up by the Deputy Director of Education (Secondary), Varanasi Region, Varanasi on 11.01.2023 negating the claim of the writ petitioner on the premise that the writ petitioner does not possess 10 years of regular service for the purposes of payment of pensionary benefits.

Questioning the order dated 11.01.2023, the present writ petition has been preferred.

Sri Rajnish Kumar Srivastava relies upon the judgment in the case of ***Sunita Sharma Vs. State of U.P. & Others*** passed in **Writ Petition No. 25431 of 2016** decided on 20.12.2018 as well as affirmed by the special appellate bench in **Special Appeal (D) No.**

181 of 2020 (State of U.P. Vs. Sunita Sharma) on 11.06.2020 and the decision of the learned Single Judge dated 30.09.2022 in **Nand Lal Vs. State of U.P. & Others Writ A No. 12070 of 2022**. He also seeks to rely upon the judgments in the case of **Sunita Sharma** and **Nand Lal** (*supra*) and the recent judgment dated 20.04.2023 passed in the bunch of the appeals, leading appeal **Special Appeal (D) No. 172 of 2023 (State of U.P. Vs. Surendra Singh & Others)**, in order to buttress his submissions that the ad hoc services followed by regularization and also completion of the probationary period entitles him for the payment of pensionary benefits.

Sri Saurabh, learned Standing Counsel submits that he does not dispute the legal proposition so canvassed by the writ petitioner, however the matter needs to be given a re-look by the competent authority, second respondent. He further submits that he does not propose to file any response to the writ petition, the matter be remitted back to the second respondent.

Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed off in the following manner: (a) The order dated 11.01.2023 passed by the second respondent, Deputy Director of Education (Secondary), Varanasi Region, Varanasi is set aside; (b) Matter stands remitted back to the second respondent to pass fresh orders in the light of the case of **Sunita Sharma** and **Nand Lal** (*supra*) strictly in accordance with law within a period of three months after putting to notice the fourth respondent..

With the aforesaid observations the writ petition stands **disposed off**.

Order Date :- 13.12.2023

N.S.Rathour