

Court No. - 35

Case :- WRIT - A No. - 20190 of 2023

Petitioner :- Ajay Kumar Siwal @ Ishmeet Singh

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

Counsel for Petitioner :- Akshayavar Nath Pandey, Sr. Advocate

Counsel for Respondent :- C.S.C

Hon'ble Vikas Budhwar, J.

Heard Shri Radha Kant Ojha, learned Senior Advocate assisted on behalf of Shri A.N. Pandey, learned counsel for the writ petitioner as well as Shri Santosh Kumar Mishra, learned Standing Counsel for respondent Nos. 1 and 2.

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

The writ petitioner claims to be appointed under Dying-in-Harness Rules as Class-III employee in the third respondent institution, Dewan Inter College, Hapur. It is also the case of the writ petitioner that he preferred an application on 01.04.2016 seeking one year leave without salary however the said application was not accepted, rather to the contrary the writ petitioner was required by virtue of a communication dated 21.02.2016 of the Principal of the institution in question either to join or to submit his resignation. The writ petitioner claims to have submitted two applications dated 01.10.2018 both addressed to the Manager of the institution in question firstly seeking voluntary retirement and secondly on the same date i.e. 01.10.2018 for joining. Learned counsel for the writ petitioner submits that till date the voluntary resignation has not been approved and neither there is any order in writing communicated to the writ petitioner i.e. voluntary retirement stood accepted. Learned counsel for the writ petitioner submits that there are various communications of the District Inspector of Schools, Hapur to the Manager/Principal of the institution in question one of the same is 02.10.2023 and other being 30.08.2023 requiring joining of the writ petitioner.

Prayer in the present petition is for according joining to the writ petitioner in the third respondent institution as Assistant Clerk.

Shri Santosh Kumar Mishra, learned Standing Counsel submits

that the issues with the writ petitioner seeks to raise needs determination at the first instance by the District Inspector of Schools, Hapur, second respondent. Thus the writ petitioner may approach the second respondent for redressal of his grievances. As according to the writ petitioner, the matter is lying before it. He further submits that he does not propose to file any response.

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

Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being disposed off 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 of Schools, Hapur who shall on the receipt of the same, put to notice the third respondent and proceed to decide the claim of the petitioner strictly in accordance with law within a period of two months from the date of presentation of the certified copy of the order after ascertaining the fact as to whether voluntary retirement of the writ petitioner was accepted or not and whether the writ petitioner has right to be accorded joining.

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 off**.

Order Date :- 14.12.2023

A. Prajapati