

Court No. - 35

Case :- WRIT - A No. - 20343 of 2023

Petitioner :- Guru Charan

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

Counsel for Petitioner :- Rajesh Kumar, Ram Krishna Patel

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

1. Heard Sri Rajesh Kumar, learned counsel for the petitioner as well as learned Standing Counsel who appears for the respondent nos. 1 to 4.

2. In view of the order which is being proposed to be passed, notices are not being issued to respondent no. 5.

3. This is a fourth writ petition preferred by the writ petitioner, genesis whereof stems from a Writ-A No. 11489 of 2021 preferred by the writ petitioner, wherein, respondent no. 4 in the said writ petition was directed to consider the claim of the writ petitioner who happens to be husband of the deceased Smt. Sarita Ben, who was working in the respondent no. 5 institution for the payment of death cum retirement gratuity. The said writ petition came to be decided on 1.9.2021, thereafter, an order is stated to have been passed by the District Inspector of Schools, Farrukhabad on 3.12.2021 denying the claim of the writ petitioner which was again challenged in Writ-A No. 944 of 2022 (Guru Charan Vs. State of U.P.), which came to be allowed on 14.9.2022 requiring the authorities to pass orders which came to be further corrected on 22.2.2023. Thereafter, the order said to have been passed negating the claim of the writ petitioner on 11.5.2022 by the Deputy Director of Education (Secondary), Kanpur Mandal, Kanpur.

4. This led to filing a Writ-A No. 8605 of 2022 (Guru Charan Vs. State of U.P.) which came to be connected with various other writ petitions involving the said issue and was allowed on 4.8.2022. Ultimately, payment has been made to the writ petitioner on 27.2.2023, however, the same is without any interest. The writ petitioner has sought quashing of the said tabulation/calculation. The writ petitioner has questioned the said calculation and also a communication dated 2.8.2023, whereby the Deputy Director (Secondary Education), Kanpur Region, Kanpur has required the

writ petitioner to furnish Government Orders on which reliance has been placed by the writ petitioner. Learned counsel for the writ petitioner seeks to rely upon a decision of this Court in Writ-A No. 14718 of 2023 (Vijay Pal Pal Singh Vs. State of U.P. And 4 Others) decided on 27.9.2023 which also follows a judgment of Division Bench of this Court in the case of Vimal Agro Ltd. Vs. State of U.P. (2004) UPBC 564, which was affirmed by the Hon'ble Apex Court.

5. Learned Standing Counsel could not dispute the fact that virtually it is fourth writ petition preferred by the writ petitioner and further the fact that the writ petitioner has not be paid interest. According to him, in view of the communication dated 2.8.2023 of the respondent no. 3 addressed to the writ petitioner, the matter engaging attention and the same has not been finally decided. He submits that a conscious decision shall be taken by respondent no. 3.

6. Considering the submissions made by rival parties as well as stand taken by them, the writ petition is disposed of requiring the respondent no. 3 to take a decision within a period of six weeks after putting to notice the writ petitioner as well as the respondent no. 5 bearing in mind the no fault theory which is being propounded by the writ petitioner as he was driven four times before this Court.

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

Order Date :- 7.12.2023
S.A.