

Court No. - 35

Case :- WRIT - A No. - 20728 of 2023

Petitioner :- Gautam Pandey

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

Counsel for Petitioner :- Siddharth Khare, Mohd. Yaseen

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar, J.

Heard Sri Siddharth Khare, learned counsel for the petitioner and Sri Shailendra Singh, 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 his father was initially appointed as an Assistant Teacher on adhoc basis and Sri Shiv Kumar Shashtri in the Inter College, Jangipur, District Ghazipur, fourth respondent on 15.09.1998 and he was accorded joining on 17.09.1998. Since his appointment was not approved and he was not made admissible to the salary, he preferred Writ-A No.24454 of 2000, which came to be disposed of on 03.07.2002 for passing orders and thereafter an order was passed on 26.07.2003 by the District Inspector of Schools, Ghazipur approving the payment of salary of the writ petitioner. Though in view of the provisions contained under Section 33-G of the U.P. Act no.5 of 1982, the writ petitioner's father claimed regularization, however, in the meantime, when the matter was pending consideration, as per the writ petitioner, the father of the writ petitioner, Santosh Kumar Pandey expired on 09.05.2021 and the writ petitioner claiming to be legal heir and fully eligible and qualified applied for compassionate appointment. Inter-departmental communications were being made and on 15.06.2021, the District Inspector of Schools, Ghazipur had written a letter to the Manager / Principal of the Institution in question for providing certain inputs.

Prayer in the present petition is for a direction for to the respondents to regularize the services of the father of the writ petitioner and also to grant compassionate appointment to the writ petitioner. Learned counsel for the writ petitioner relies upon the decision in the case of State of U.P. Vs. Kuldeep Thakur, 2017 (4) ADJ 494 as well the judgment in the case of **Smt. Preeti Sharma Vs. State of U.P.** in **Writ-A No. 11612 of 2017**, so as to contend

that even otherwise mere non-regularization would not be a ground to negate the claim of the writ petitioner for compassionate appointment.

Sri Shailendra Singh, learned Standing Counsel submits that the issues which the writ petitioner seeks to raise need determination at the first instance by the third respondent, District Inspector of Schools, Ghazipur, who shall accord consideration to the claim of the father of the writ petitioner, if it comes within the ambit of regularization rules while according posthumous regularization and compassionate appointment of the writ petitioner. He further submits that an order shall be passed by the third respondent in the light of the judgment in **Smt. Preeti Sharma (supra)**. He further submits that he does not propose to file any response to the writ petition.

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

Considering the submission of the rival parties as well as the 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 approach the third respondent, District Inspector of Schools, Ghazipur along with a comprehensive representation accompanied with self-attested copy of the writ petition, who shall, on the receipt of the same, put to notice the fourth respondent and take follow up action in pursuance of the communication as referred to above regarding posthumous regularization to the father of the writ petitioner while sending papers to the competent authority and also to consider the claim of the writ petitioner for compassionate appointment in the light of the judgments noted above, within a period of three months from the date of production of certified copy of the order.

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

Order Date :- 15.12.2023

N.S.Rathour