

Court No. - 22

Case :- WRIT - A No. - 6592 of 2000

Petitioner :- Rajendra Kumar Pandey

Respondent :- State Of U.P.Through Secy.

Counsel for Petitioner :- Sri Krishna Srivastava,Alka Verma,Pali Anurag

Counsel for Respondent :- C.S.C.,Balram Yadav,S.P.Singh

Hon'ble Manish Kumar,J.

1. In compliance of earlier order of this Court, Prof. Biharilal Sharma, Vice Chancellor, Sampurnand Sanskrit University, Varanasi is present in Court and offers un-conditional apology for his non-appearance on the earlier dates with assurance that in future he will take care of and this mistake will not be repeated.

2. The affidavit of compliance filed by Vice Chancellor is taken on record and his unconditional apology is accepted.

3. Heard Learned Counsel for the parties.

4. Present petition has been preferred for issuing direction to the respondent no.3 i.e Managaer, Committee of Management, Sri Gayatri Brahamcharya Ashram Sanskrit University, Vashisth Kund, Ayodhya, Faizabad no to give effect and implement the order dated 02.11.2000 passed by the respondent no.5- District Inspector of Schools (D.I.O.S.) Faizabad; not to initiate the procedure for terminating the services of the petitioner and salary of the petitioner be directed to be paid regularly month to month.

5. Learned counsel for petitioner has submitted that the petitioner had applied against the advertisement dated 23.08.1992 for the post of Lecturer 'Vyakarna' and after being selected, the papers were forwarded to the Vice Chancellor, Sampurnand Sanskrit University, Varanasi. The appointment of the petitioner was approved by the Vice Chancellor vide order dated 23.03.1996. The petitioner was appointed vide appointment letter dated 24.03.1996 as Assistant Teacher and in pursuance thereof, the petitioner joined on 23..9.1996.

6. Suddenly, on 02.11.2000, the respondent no.5 has directed the respondent no.3 to initiate the proceedings for termination of petitioner's services and make recovery of salary already paid to him as the petitioner has been appointed against the non-sanctioned post or beyond the sanctioned post.

7. Feeling aggrieved by the said direction issued by the

D.I.O.S., the petitioner has approached this Court by filing the present writ petition in which an interim order has been granted vide order dated 16.11.2000 since then, the petitioner is continuously been functioning and getting his salary regularly every month.

8. This Court vide its order dated 22.09.2023 had directed the learned State Counsel and Vice Chancellor, Sampurnanand Sanskrit University, Varanasi to file an affidavit regarding the vacancy in the institution, particularly, whether the post of 'Vyakarna' on which the petitioner was selected was/is sanctioned or not.

9. In compliance of the order of this Court, an affidavit has been filed on behalf of the State wherein it has specifically been mentioned that the post of Lecturer 'Vyakarna' is sanctioned since the very inception of the creation of the post. The affidavit filed by the Vice-Chancellor in which it has been mentioned that the approval was granted regarding the appointment of the petitioner on the post of Lecturer 'Vyakarna'.

10. Learned State Counsel and the counsel for Sampurnanand Sanskrit University, Varanasi fairly conceded as per the affidavits filed by the officials that the post of Lecturer 'Vyakarna' is a sanctioned post since the very inception of its creation.

11. After hearing the counsel for the parties and going through the record of the case, it is found that it is an admitted fact as per the record of the writ petition and the counter affidavits filed from time to time that the post on which the petitioner was appointed i.e. Lecturer 'Vyakarna' was a sanctioned post. The reason indicated by the D.I.O.S. in its letter dated 02.11.2000 that the petitioner was appointed against the non-sanctioned post or beyond the sanctioned strength is on the face of the record is incorrect fact. The respondent no.5, without application of mind has passed the order for initiating proceedings against the petitioner which is arbitrary and un-reasonable.

12. In view of the discussion made herein above, the writ petition is **allowed** and the order dated 02.11.2000 passed by the D.I.O.S. is hereby **quashed**.

Order Date :- 29.11.2023/-Amit K-