

Court No. - 5

Case :- WRIT - A No. - 290 of 2001

Petitioner :- Ram Dularey

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

Counsel for Petitioner :- Ravi Singh,Nagendra B.Singh

Counsel for Respondent :- C.S.C.

Hon'ble Irshad Ali,J.

1. Heard Sri Nagendra B. Singh, learned counsel for the petitioner and learned Additional Chief Standing Counsel for the respondent - State.

2. The rejoinder affidavit filed today in Court may be taken on record.

3. By means of present writ petition, the petitioner has made the following prayer:

"I. issue a writ, order or direction in the nature of mandamus commanding the opposite parties to permit the petitioner to continue in service alongwith full salary and all other consequential benefits in pursuance to appointment letter dated 8.2.98 filed as annexure no.1 to the writ petition.

II. any other or further order may kingly also be passed which the Hon'ble Court deems fit and proper under the facts and circumstances of the case.

III. Cost of the writ petition may kindly be allowed to the petitioner."

4. Factual matrix of the case is that the petitioner was granted appointment on 08.12.1998 on regular vacancy of Class-IV post by the Principal of the College, namely, Gandhi Intermediate College, Sangipur, District Pratapgarh. The committee of management has sent the appointment letter to the District Inspector of Schools (DIOS), Pratapgarh for grant of financial approval but no response was made.

5. The institution is receiving aid from the State Government, therefore, the provisions of U.P. Act No.24 of 1971 are applicable to the said institution. One, Sri Ram Pher Singh, Peon of the college attained the age of superannuation and accordingly, the Principal of the College had invited

applications to fill up the post of Peon and the petitioner had applied for the post and was selected by the duly constituted selection committee.

6. Respondent No.3 - D.I.O.S., Pratapgarh has directed the Principal / Committee of Management of the college to appoint one Sri Vimal Singh as Class-IV employee under Dying in Harness Rules, 1974. The committee of management had not permitted to Sri Vimal Singh to resume the duties, hence, he filed Writ Petition No.1543 (S/S) of 1999. It is relevant to mention here that father of Sri Vimal Singh was an employee of Sardar Patel Intermediate College, Kaithola, District Pratapgarh, who expired on 06.06.1990 when Sri Vimal Singh was only 14 years of age as per his date of birth i.e. 15.12.1976.

7. Under the circumstances, the D.I.O.S., Pratapgarh appointed to Sri Vimal Singh under Dying in Harness Rules, 1974 in Sardar Patel Intermediate College, Kaithola, District Pratapgarh as Class-IV employee. The petitioner has submitted representation with a request to make payment of salary but failed to get any response. Feeling aggrieved, the present writ petition has been filed, wherein following interim order was granted on 18.01.2001:

".....

In the meantime the opposite parties are directed to pay salary to the petitioner from January, 2001."

8. In pursuance to the interim order granted by this Court, the petitioner was getting his salary and retired from service on attaining the age of superannuation on 31.08.2017, however, arrears of salary w.e.f. 08.02.1998 to 31.12.2000 have not been paid to him. The DIOS vide letter dated 15.10.2008 has recommended for payment of arrears of salary to the petitioner to the Director of Education (Basic), U.P. at Allahabad on the ground that Sri Vimal Singh has joined in Sardar Patel Intermediate College, Raniganj, Kaithola, District Pratapgarh and is getting salary from the said institution.

9. Submission of learned counsel for the petitioner is that in case direction is issued to the Director of Education (Basic), U.P. at Allahabad to pass appropriate order on the recommendation of the DIOS for payment of arrears of salary, ends of justice would be met.

10. He next submitted that in case permission is accorded to the petitioner to file a fresh comprehensive representation to Director of Education (Basic), U.P. at Allahabad in regard to

recommendation of the DIOS dated 15.10.2008 with a direction to pass appropriate reasoned and speaking order thereon for payment of arrears of salary we.f. 08.02.1998 to 31.12.2000 within a reasonable period, ends of justice would be met.

11. His next submission is that there is no rational justification on the part of the Director of Education (Basic), U.P. at Allahabad in sitting tight over the matter and not taking decision on the recommendation of the DIOS.

12. On the other hand, learned Additional Chief Standing Counsel submitted that in case the recommendation of the DIOS dated 15.10.2008 is lying pending consideration before the Director of Education (Basic), U.P. at Allahabad, appropriate reasoned and speaking order shall be passed in regard to payment of arrears of salary to the petitioner w.e.f. 08.02.1998 to 31.12.2000 within a reasonable period.

13. I have considered the submissions advanced by learned counsel for the parties and perused the material on record.

14. In view of submissions advanced by learned counsel for the parties, there is no justification to keep the writ petition pending anymore.

15. Accordingly, the writ petition is finally **disposed of** with a liberty to the petitioner to make a fresh comprehensive representation to the Director of Education (Basic), U.P. at Allahabad ventilating his grievances in regard to payment of arrears of salary w.e.f. 08.02.1998 to 31.12.2000 within a period of one week from today. In case such a representation is filed within aforesaid period, the Director of Education (Basic), U.P. at Allahabad is directed to consider the same and pass appropriate reasoned and speaking order within a period of six week from the date of production of a certified copy of this order.

Order Date :- 17.10.2023

Adarsh K Singh