

Court No. - 8

Case :- WRIT - A No. - 4056 of 2023

Petitioner :- Sandhya Tripathi

Respondent :- State Of U.P. Thru. Prin. Secy. Medical And Health Services, Lko. And 3 Others

Counsel for Petitioner :- Abdul Samad, Sonu Gupta, Syed Mohammad Abid

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel appearing for the petitioner and learned Additional Chief Standing Counsel appearing for the State.
2. This is 3rd writ petition filed under Article 226 of the Constitution of India for a writ in the nature of Mandamus seeking appointment of the petitioner on the post of Auxiliary Nurse Midwife on compassionate ground under The U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 (hereinafter referred to as "Rules, 1974").
3. Earlier, the petitioner had approached this Court by filing a Writ Petition No.24792(SS) of 2017, which was disposed of by means of order dated 13.10.2017 directing the Director General Family Welfare, Lucknow to consider and decide the representation of the petitioner for appointment under Rules, 1974 within a period of 3 months.
4. The petitioner in pursuance to the liberty granted by this Court vide order dated 13.10.2017, did not move any representation and filed second writ petition after more than 5 years before this Court being Writ A No.4921 of 2022 seeking similar relief. Said writ petition was dismissed by this Court vide order dated 05.08.2022 on the ground that second writ petition for the same prayer would not be maintainable as it would be barred by principal of *res judicata*. However, it was observed that if the petitioner was aggrieved by the non compliance of the order dated 13.10.2017, he would have remedy under the Contempt of the Court Act.
5. In pursuance to the said observation made in the order dated

05.08.2022, the petitioner filed contempt petition being Contempt Application (Civil) No.2805 of 2022. Said contempt application was rejected by this Court vide order dated 15.12.2022 considering the stand of the respondents that the petitioner did not move any representation in pursuance to the order dated 13.10.2017.

6. Contempt Court put a specific question to the learned counsel appearing for the petitioner that by which mode the representation was given to the authority concerned, to which it was stated by the learned counsel for the applicant-petitioner that the petitioner had lost the record of the representation. In view thereof, the contempt application was dismissed.

7. After dismissal of the contempt application, the petitioner has filed 3rd writ petition for the same reliefs. It is well settled that successive writ petition(s) for the same cause of action is not maintainable. Petitioner's claim for compassionate appointment has been rejected vide order dated 14.12.2022 on the ground that application of the petitioner is time barred, and it has been filed beyond 5 years as statutory remedy prescribed for filing an application seeking appointment on compassionate ground on demise of a government employee.

8. In view thereof, I do not find that the impugned order suffers from any legal infirmity. Impugned order is in accordance with law, therefore, I find no substance in the writ petition, which is hereby ***dismissed.***

(Dinesh Kumar Singh, J.)

Order Date :- 29.5.2023
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