

Court No. - 8

Case :- WRIT - A No. - 1294 of 2018

Petitioner :- Dr. Ran Chhor Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Medical And Health S

Counsel for Petitioner :- Vishal Verma,Rajiva Dubey

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. Heard Shri Rajiva Dubey, learned counsel for the petitioner and learned Standing Counsel appearing for the State-respondents.

2. The present petition under Article 226 of the Constitution of India has been filed seeking quashing of order dated Nil November, 2017 whereby petitioner's representation dated 18.03.2017 in pursuance to the order dated 13.07.2017 passed in Writ Petition No.15323 (M/B) of 2017 has been rejected for interest on delayed payment of gratuity and other retiral dues.

3. The petitioner joined service in the Government Department on 16.06.1979 at District Hospital Kheri. On 16.07.1990, he was relieved for joining as Senior Surgeon at District- Saharanpur but he did not join at transferred place. Thereafter, the petitioner made a few representations and the State Government vide order dated 04.09.1995 allowed him to join back at District-Kheri itself. In pursuance of the said order dated 04.09.1995, the petitioner joined only on 09.01.1996 at District-Kheri. Thus, the petitioner absented himself from 16.07.1990 to 09.01.1996. After joining at District-Kheri on 17.06.1997 he took voluntary retirement from the government service so that he could establish a good hospital for himself.

4. Thereafter, the petitioner applied for leave for the said period of this absence. As the Chief Medical Superintendent had no jurisdiction to sanction six years long leave, the matter was referred to the Finance Controller. The matter was examined and thereafter, the Director General, Medical Health, Government of Uttar Pradesh referred the matter to the State Government. The then State Government was very benevolent towards the petitioner and vide order dated 31.03.2006 treated his long absence of six years from service between 24.07.1990 to 08.01.1996 as leave without pay.

5. After the leave was sanctioned, the petitioner's paper for pension and other post retiral dues were processed. The petitioner was sanctioned pension and other retiral dues vide order dated 18.12.2006.

The petitioner thereafter, filed a writ petition before this Court being Writ Petition No. 1629 (S/B) of 2008 for including the period of his absence from 01.04.1994 to 08.01.1996 and 08.02.1974 to 15.05.1977 in his service. The said writ petition was finally decided vide judgment and order dated 21.01.2016 as corrected vide order dated 05.02.2016. The Division Bench of this Court directed for inclusion of the said period in the service of the petitioner and thereafter, the petitioner's retiral dues and gratuity after adding the said period i.e. from 01.04.1994 to 08.01.1996 and 08.02.1974 to 15.05.1977 was paid to him.

6. The petitioner thereafter, filed a writ petition before this Court being Writ Petition No.15323 (M/B) of 2017 for payment of interest on alleged delayed payment of the gratuity and other retiral dues. The said writ petition was disposed of vide order dated 13.07.2017 with direction to the respondent No.2 to take decision on the representation of the petitioner expeditiously, preferably within two months from the date of communication of a certified copy of the order.

7. The said representations of the petitioner has been rejected vide impugned order by the Director General (Health), Uttar Pradesh, Swasthya Bhawan, Lucknow.

8. The facts as mentioned above would disclose that it is only vide judgment and order dated 21.01.2016 as corrected vide order dated 05.02.2016, the petitioner's absence from 01.04.1994 to 08.01.1996 and 08.02.1974 to 15.05.1977 has been treated to be period spent in service and within three months, the petitioner's retiral dues have been finalized and paid to him.

9. I do not find that the impugned order suffers from any illegality which requires an interference of this Court. If this Court would not have passed the judgment and order dated 21.01.2016 as corrected vide order dated 05.02.2016, the said period would not have been included in the service of the petitioner and he would not have been entitled for retiral dues. Even otherwise, the claim of the petitioner for interest on delayed payment of gratuity and other retiral dues has been raised after twelve years, such a stale and belated claim cannot be entertained by this Court in exercise of its writ jurisdiction.

10. In view thereof, I find no substance and merit in the present petition which is hereby **dismissed**.

(Dinesh Kumar Singh, J.)

Order Date :- 3.7.2023

Piyush/-