

**Court No. - 4**

**Case :-** CONTEMPT APPLICATION (CIVIL) No. - 2961 of 2017

**Applicant :-** Usha Shukla

**Opposite Party :-** Avadh Naresh Sharma Director Madhyamik Shiksha And Ors.

**Counsel for Applicant :-** Durga Prasad Shukla

**Hon'ble Rajesh Singh Chauhan,J.**

1. Heard Sri Vivek Mishra holding brief of Sri Durga Prasad Shukla, learned counsel for the petitioner and Sri Manish Kumar, learned Standing Counsel.

2. Sri Manish Kumar has stated that the post-retiral dues have been paid to the petitioner as the affidavit of compliance to this effect has already been filed. He has drawn attention of this Court towards the order dated 10.12.2021 passed by District Inspector of Schools, Barabanki whereby all post-retiral dues have been paid to the petitioner. He has further drawn attention of this Court towards letter dated 16.12.2021 preferred by DIOS, Barabanki addressing to the Principal of the institution making request that appropriate exercise be undertaken so that amount of gratuity be paid to the legal heirs of the petitioner. In reply to the aforesaid letter, the Principal of the institution preferred a letter dated 17.12.2021 addressing to the DIOS, Barabanki indicating therein that since late husband of the petitioner has not filled up the option Form (Vikalp Patra) at the age of 60 years since he died before completing his service, therefore the relevant papers in respect of gratuity could not be forwarded before the DIOS, Barabanki for necessary orders.

3. On that, learned counsel for the petitioner has drawn attention of this Court towards one order dated 24.10.2019 passed by Allahabad High Court in Writ-A No. 14397 of 2019 (Renu Gupta Vs. State of U.P. and 5 others), wherein considering the identical circumstances and the case laws, the direction was issued to the authorities to make payment of gratuity to the claimants, even if the late employee could not filled up his/her option sheet at the time of retirement at the age of 60 years. Learned counsel for the petitioner has also submitted that the directorate order (D.O.) has been issued by the Director making payment of gratuity in these circumstances.

4. Be that as it may, since the petitioner has been paid all the post-retiral benefits and payment of gratuity could not be made for the reason that the relevant papers have not been forwarded

by the Manager of the institution to the DIOS through Principal for the reason that the petitioner could not fill the option Form at the age of 60 years, therefore, the petitioner is given liberty to claim the aforesaid amount of gratuity in the light of directorate order (D.O.), if any, and also claim the parity of the orders being passed by this Court in similar circumstances.

5. In view of the above, nothing remains to be adjudicated in the present contempt petition.

6. Accordingly, the instant contempt petition is ***dismissed***.

7. Notices, if any, are discharged.

[Rajesh Singh Chauhan,J.]

**Order Date :- 3.11.2023**

kkv/