

Court No. - 20

Case :- WRIT - A No. - 6119 of 2023

Petitioner :- Dr. Dharamveer And 3 Others

Respondent :- State Of U.P Thru. Addl. Chief Secy. Ayush Deptt. Govt. Civil Sect. Lko. And 4 Others

Counsel for Petitioner :- Avinash Tiwari

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

Heard learned counsel for petitioners and learned State Counsel for opposite parties.

On 21st August, 2023 following order had been passed:-

Heard learned counsel for petitioners and learned State Counsel for opposite parties.

"Under challenge are orders dated 22.5.2023 and 3.8.2023 whereby salary payment of petitioners has been stopped on the ground that their attendance was not found established as per Ayush Attendance App.

It has been submitted that impugned orders have been passed by the Director, Ayurved Services who is not the appointing authority of petitioners which in fact is the Governor/Additional Chief Secretary of the department concerned.

Learned State Counsel is granted a week's time to obtain instructions with regard to appointing authority of petitioner."

In pursuance thereof, a short counter affidavit has been filed and in paragraph 9 thereof, it has been admitted that the petitioners are working as Medical Officer, Ayurvedic (Group-D) and their appointing authority is His Excellency the Governor of U.P./Principal Secretary, Ayush Department, Government of U.P. In paragraph 15 of the short counter affidavit it has also been indicated that out of four petitioners in present petition, petitioner Nos. 1 to 3 have already started registering their attendance through Ayush Attendance Application due to which their upto date salary including arrears has been released whereas it is only the petitioner No.4 who is not abiding by the new mode of attendance verification.

Considering the admission made in paragraph 9 of the short counter affidavit, it is evident that order impugned has not been

passed by the competent authority and has in fact been passed by the Director of the Department.

In terms of paragraph 15 of the counter affidavit, which are not denied by learned counsel for petitioners on the basis of instructions, petition is rendered infructuous with regard to claim of petitioners 1 to 3. However in view of admission made by opposite parties in paragraph 9 of the counter affidavit, the orders impugned dated 22nd May, 2023 and 3rd August, 2023 are hereby quashed by issuance of writ in the nature of Certiorari only so far as it relates to petitioner No.4 granting liberty to the competent authority to pass orders afresh pertaining to petitioner.

Considering aforesaid, the petition succeeds and is partly allowed to the aforesaid extent. Parties to bear their own cost.

Order Date :- 6.11.2023

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