

Court No. - 8

Case :- WRIT - A No. - 8032 of 2023

Petitioner :- Kunwar Singh

Respondent :- State Of U.P. Thru. Joint Secy. Deptt. Technical Education Lko. And 2 Others

Counsel for Petitioner :- Anushri Verma,Ajit Ranjan,Pradeep Kumar,Savita Kumari

Counsel for Respondent :- C.S.C.,Atul Kumar Dwivedi

Hon'ble Pankaj Bhatia,J.

1. Heard Ms. Anushri Verma, learned Counsel for the petitioner and learned Standing Counsel no.1 as well as Sri Atul Kumar Dwivedi, learned Counsel appearing on behalf of the respondents no.2 and 3.

2. The present petition has been filed by the petitioner claiming that despite entitlement, the case of the petitioner for grant promotion to the post of Senior Office Assistant w.e.f. March, 2021 has not been considered solely on the ground of pendency of a criminal case instituted at the behest of the respondent University against the petitioner.

3. The Counsel for the petitioner argues that a complaint was registered at the instance of the Finance Officer of the University against the petitioner, however, in the internal proceedings, nothing wrong was found at the instance of the petitioner, which is fortified by the decision dated 05.05.2014 of the University itself, which was taken by a Committee of five persons constituted to investigate the matter. She further argues that in the light of the said, it was incumbent upon the University to have taken a decision with regard to the petitioner for grant of promotion, however, the same is being denied solely on the ground of pendency of criminal case. She also draws my attention to the Government Order dated 28.05.1997 issued by the State Government and adopted by the respondent University in respect of the procedure to be followed in the case of claim of promotion. She relies on Clause 10 of the said Government Order to claim that when the cases are pending and have not been decided for the period of one year, certain directions are recorded for considering the claim of promotion which has not been done by the University.

4. The Counsel for the respondent University, on the other hand, argues that the case of the petitioner for promotion was

considered, however, the sealed cover procedure was adopted in view of the pendency of the criminal case against the petitioner.

5. Considering the submissions made at the bar and the fact that the provisions of Clause 10 of the Government Order dated 28.05.1997 provide for steps to be taken, in the event, a procedure of sealed cover is adopted in respect of promotion, which has admittedly not been done by the University and no order exists to that effect, the present writ petition is ***disposed off*** directing the respondent no.3 to pass a fresh order on the claim of the petitioner for promotion. While doing so, the respondent no.3 shall have adequate consideration of the guidelines given in Clause 10 of the Government Order dated 28.07.1997 as well as the report of the five member Committee. The respondent no.3 shall take decision within a period of six weeks from the date of production of certified copy of this order.

Order Date :- 16.10.2023

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