

Court No. - 20

Case :- WRIT - A No. - 8473 of 2023

Petitioner :- Rameshwar Singh

Respondent :- State Of U.P Thru. Prin. Secy. Cooperative Deptt. Govt.
Civil Sectr. Lko. And 2 Others

Counsel for Petitioner :- Manish Mani Sharma

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

1. Heard learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties.

1A. Learned counsel for petitioner is directed to implead District Magistrate, Chandauli as opposite party no.4 during course of the day. Notices to the newly impleaded opposite party has been accepted by learned State Counsel.

2. Petition has been filed seeking a direction to opposite parties for payment of pension along with arrears with effect from March, 2022.

3. It has been submitted that after superannuation from service petitioner was being paid pension according to the provisions of U.P. Cooperative Societies Act, 1965 but the same was stopped from March, 2022. without any order for the same. It is submitted that since petitioner is entitled for pensionary benefits in terms of service conditions, the same cannot be stopped otherwise than in accordance with law.

4. Learned State counsel on the basis of instructions submits that pension could not be paid to petitioner due to paucity of funds.

5. Learned State counsel on the basis of instructions submits that lack of funds with the Cooperative Department is on account of the fact that State Government has restrained the department from adopting any coercive measures with regard to recovery of loans below Rs.1,00,000/-(Rupees One Lakh) on account of

Welfare Schemes of the State Government and therefore since coercive tactics could not be adopted by Cooperative Department, recovery could not be effective resulting in paucity of funds with the department and consequently pensionary benefits could not be made available to the employees of the department.

6. The controversy, it appears has already been decided by this Court in the case of **Sushil Kumar Saraswat and 5 others v. State of U.P. & others** passed in Writ A No.3052 of 2022 whereby this Court in judgment and order date 03.02.2023 has rejected the ground for stoppage of pension and direction has been issued to the State Government to pass necessary orders for sanctioning/ grant to the Registrar-cum-Commissioner, Cooperative, Lucknow to ensure payment of pension to petitioner of said petition and other similarly situated retired persons including arrears.

7. It also appears from the aforesaid order that directions have been issued for making payment of pensionary benefits including arrears to all the retired persons of the department. It is admitted that after passing of the order dated 03.02.2023, grant was sanctioned in terms of directions issued and pensionary benefits were made available to all persons who approached this Court.

8. Since the order dated 03.02.2023 specifically issues a direction to the opposite parties therein for payment of pension along with arrears to all similarly situated retired persons, there was no occasion for the opposite parties to have denied pensionary benefits to petitioner and to have made available the said benefits only to those persons who approached this Court. Such a conduct by opposite parties cannot be appreciated particularly in view of specific directions issued by this Court vide order dated 03.02.2023. opposite party no.2 i.e. Registrar-cum-Commissioner, Co-operative Societies, Lucknow is directed to adhere the directions issued by this Court in the case of **Sushil Kumar Saraswat** (supra) with regard to payment of pensionary benefits to all similarly situated retired employees of the department.

9. Learned counsel for petitioner has further submitted that according to the Rule 21-A of the Uttar Pradesh Co-operative Collection Fund and the Amins and Others Staff Service (First Amendment) Rules, 2005, which is with regard to the salary for benefits of Kurk Amin, it is provided that in case there is any difficulty in disbursement of salary to such persons, the State Government shall give a matching grant which may be returned back from the amount collected by the collection in-charge in the State Treasury.

10. In view of aforesaid, a writ in the nature of mandamus is issued commanding the opposite party no.2 to make payment of pensionary benefits dues to petitioner along with arrears with effect from March, 2022. along with continuous monthly payment of same.

11. Since the ground for withholding payment of pensionary benefits of petitioner is not found to be either in accordance with law nor with Article 21 of the Constitution of India, it is directed that petitioner shall be entitled to payment of interest @ 6% per annum from the date it was due till the date of actual payment.

12. From the instructions, it is evident that paucity of funds with Cooperative Department is on account of directions issued by the State restraining the Cooperative Department from effecting any coercive measures regarding recovery of loans. Since paucity of funds with department is being alluded to directions issued by the State Government, it is provided that opposite party no.2 may seek sanctioning of grant by the State Government to the Cooperative Department for reimbursement of payments made to the petitioner as also per directions issued in Sushil Kumar Saraswat (supra).

Order Date :- 1.11.2023

kvg/-