

Court No. - 20

Case :- WRIT - A No. - 8621 of 2023

Petitioner :- Sudeep Shukla And 66 Others

Respondent :- State Of U.P. Thru, Prin. Secy. Deptt. Medical Health
Family Welfare Civil Sectt. Lko And 2 Others

Counsel for Petitioner :- Alok Mishra

Counsel for Respondent :- C.S.C.,Gaurav Mehrotra

Hon'ble Manish Mathur,J.

1. Heard learned counsel for petitioner, learned State Counsel for opposite parties and Ms. Anushri Moitra learned counsel holding brief on behalf of Mr. Utsav Misra learned counsel for opposite party No.3, whose power is taken on record.

2. Petition has been filed challenging order dated 27th September, 2023 whereby petitioner's claim for grant of weightage on the post of Optometrist in regular selection in pursuance of advertisement dated 12th July, 2023 has been rejected. Other concomitant prayers have also been made in the petition.

3. It is submitted that earlier petitioner had approached this Court filing Writ A No. 5837 of 2023 which was disposed of vide order dated 10th August, 2023 directing the authority concerned to decide petitioner's grievance in the light of judgment rendered by this Court in Writ Petition No. 190 (S/S) of 2013 (Seema Singh and others versus State of U.P. and others and other connected matters) in case they were applicable in the present dispute. It has been submitted that in pursuance of such directions, petitioner has submitted a representation which has been rejected by means of impugned order dated 27th September, 2023 without at all advertting to the judgement in the case of Seema Singh (supra). It is submitted that on the contrary, the opposite party has rejected petitioner's claim on the ground of rejection of application of one Deepak Singh but as would be evident from the impugned order, the case of said Deepak Singh was with regard to age relaxation and not for grant of weightage.

4. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, it is quite evident that by means of order dated 10th August, 2023, Writ A No. 5837 of 2023 was disposed of by this court by issuing a specific direction to authority concerned to consider petitioner's case in the light of judgment rendered in the case of Seema Singh(supra).

5. The impugned order makes it quite evident that despite authority concerned having quoted the order dated 10th August, 2023, has not at all adverted to the judgment in the case of Seema Singh (supra). On the contrary petitioner's representation has been rejected on the ground of parity with one Deepak Singh. The impugned order itself indicates that the case of Deepak Singh was with regard to age relaxation and not regarding grant of weightage and was therefore clearly inapplicable in the present facts and circumstances of the case where petitioner was seeking weightage in the matter of appointment with regard to earlier services rendered. Evidently the order impugned in the present writ petition has not only been passed without any application of mind at all but also contrary to the directions issued by this Court earlier.

6. In view of aforesaid, the impugned order dated 27th September, 2023 is hereby quashed by issuance of writ in the nature of Certiorari at the admission stage itself. The dispute is remitted to the opposite party No.1 i.e. Principal Secretary, Department of Medical, Health and Family Welfare, Civil Secretariat, Govt. of U.P., Lucknow to revisit the matter and to decide petitioner's representation dated 22nd August, 2023 afresh in the light of directions issued by this Court earlier on 10th August, 2023 within a period of six weeks from the date a copy of this order is produced before the said authority.

7. Resultantly the petition succeeds and is allowed. Parties to bear their own cost.

Order Date :- 6.11.2023

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