

Court No. - 20

Case :- WRIT - A No. - 9337 of 2023

Petitioner :- Nikhil Shukla

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Secy. Revenue
Deptt. Govt. U.P. Lucknow And 4 Others

Counsel for Petitioner :- Avinash Tiwari

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.

2. Petition has been filed seeking the following relief:-

"(1) A writ, order or direction in the nature of certiorari quashing the impugned order dated 09.11.2023 passed by opposite party No.3 contained as Annexure No.1 to this writ petition, with all consequential benefits, in the interest of justice.

(II) A writ, order or direction in the nature of mandamus commanding the opposite parties to consider the petitioner for promotion on next higher post w.e.f. the date of promotion of Junior employees, within shortest time as directed by this Hon'ble Court, in the interest of justice.

(III) A writ, order or direction in the nature of mandamus commanding the opposite parties to provide full salary and other allowances to the petitioner for the period 11.03.2021 to 23.09.2022 on which the petitioner was under suspension, in the interest of justice.

(IV) Any other order or direction which this Hon'ble Court may deem fit just and proper may also kindly be passed in favour of the Petitioner.

(V) Allow the writ petition with cost in favour of the Petitioner."

3. Learned counsel for petitioner has submitted that by means of impugned order, not only minor penalty has been imposed upon petitioner but salary for the suspension period has also been withheld, which is against judgments rendered by this Court in the cases of **State of U.P. Thru. Principal Secretary, Institutional Finance Tax & Anr. versus Arun Kumar Singh & Anr.** passed in **Service Bench No.487 of 2015** and **Vivek Chaudhary versus State of U.P. Thru. Chief Secretary, Government of U.P., Lucknow & Ors.** passed in **Service Bench No.4500 of 2016**. It is submitted that in view of aforesaid judgments, petitioner is entitled for payment of salary of the suspension period particularly when once notice was issued under Rule 7 of the Uttar Pradesh Government Servant (Discipline and Appeal) Rules of 1999 but the entire proceedings were not held in accordance there.

4. Mr. Diwakar Singh, learned State counsel has raised a preliminary objection regarding maintainability of writ petition in view of availability of alternative and equally efficacious remedy of filing appeal before concerned authority since punishment imposed is only minor in nature.

5. In view of such objection being raised, learned counsel for petitioner prays for liberty to file an appeal before appropriate authority.

6. Considering submissions advanced by learned counsel for parties, liberty is granted to petitioner to file an appeal before appropriate authority within a period of one week from today. In case appeal is filed within the aforesaid time period, the same shall be considered and decided within a period of six weeks thereafter.

7. With the aforesaid observation, petition stands **disposed of**.

Order Date :- 11.12.2023

Subodh/-