

Court No. - 7

Case :- WRIT - A No. - 9632 of 2023

Petitioner :- Bhupendra Singh Visen

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Nagar Vikas Lko. And 2 Others

Counsel for Petitioner :- Savita Jain

Counsel for Respondent :- C.S.C.,Aftab Ahmad

Hon'ble Abdul Moin,J.

Heard learned counsel for the petitioner, learned Standing counsel appearing on behalf of the respondents no. 1 & 2 and Sri Aftab Ahmad, learned counsel appearing on behalf of the respondent no. 3.

With the consent of learned counsel appearing on behalf of the contesting parties, the matter is being finally decided.

The contention of learned counsel for the petitioner is that while the petitioner was in service, he had been issued with the charge sheet dated 03.06.2023. The petitioner has retired on attaining the age of superannuation on 31.07.2023. However, on account of pendency of the said disciplinary proceedings, the retiral dues have still not been paid to the petitioner and hence the petition.

Responding to that, Sri Aftab Ahmad, learned counsel for the respondent no. 3 states that Provident Fund and leave encashment have already been paid to the petitioner by the respondent no. 3 and for other dues it is the respondent no. 2 which is to make the payment.

Sri P.K.Singh, learned Additional Chief Standing counsel appearing on behalf of the respondents no. 1 & 2 states that on account of pendency of disciplinary proceedings and keeping in view the Full Bench judgment of this Court in the case of **Shivgopal Vs. State of U.P and Ors** reported in **2019 (5) ADJ 441** it is only the provisional pension which is to be payable to the petitioner and the gratuity cannot be paid till such time the disciplinary proceedings are finalized. He submits that the disciplinary proceedings would be concluded within a specified time.

Considering the aforesaid facts and the fact that the pension & gratuity have not been paid to the petitioner on account of pendency of disciplinary proceedings, the instant petition is disposed of with the direction to the respondents to conclude the disciplinary proceedings against the petitioner in accordance with law after supplying the documents as have been required by the petitioner for his defence. In case, the respondents find any documents are not relevant or not to be supplied the same would be informed to the petitioner within a period of two weeks from today. The petitioner would thereafter submit his reply within next two weeks and the disciplinary proceedings would be finalized in accordance with law within a period of three weeks thereafter.

As keeping in view the Full Bench judgment of this Court in the case of **Shivgopal (supra)** it is the provisional pension which is to be paid to the petitioner and final pension & gratuity cannot be paid consequently, the respondents would pay the provisional pension to the petitioner in accordance with law within a period of four weeks.

Order Date :- 16.12.2023

Pachhere/-