

Court No. - 1

Case :- WRIT - A No. - 4832 of 2023

Petitioner :- State Of U.P. Thru. Addl. Chief Secy. Irrigation Deptt.Govt.
Of U.P. Lko. And Others

Respondent :- Jagdamba Prasad Yadav And Another

Counsel for Petitioner :- C.S.C.

Counsel for Respondent :- Om Prakash Gupta,Rohit Kumar
Sahu,Shikhar Anand

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Subhash Vidyarthi,J.

1. Heard learned counsel for the petitioners-State and Sri Om Prakash Gupta learned counsel who has put in appearance on behalf of the respondent no. 1.
2. The writ petition filed by the State is directed against the judgment and order dated 19.12.2022 passed by the U.P. Public Services Tribunal in Claim Petition No. 1562 of 2020 whereby the recovery of a sum of Rs. 4,08,800/- sought to be made against the respondent no. 1 on the ground of wrong fixation of pay from the amount of gratuity has been set aside and post retiral dues have been directed to be released in favour of the said respondent with a grade pay of Rs. 4200/-.
3. We have carefully gone through the judgment impugned herein this writ petition. It is undisputed that the fixation of pay was made some time in the year 2015 and while undertaking such an exercise, no fault has been attributed against the respondent-employee for having played any role or providing any misleading information to the department. The fixation of pay has proceeded on the own volition of the State authorities having regard to the

entitlement of the respondent-employee.

4. The respondent-employee is stated to have retired from service in the year 2019, whereafter, recovery of the aforesaid amount from the gratuity payable to him was sought to be made. The action so taken against the respondent-employee after attaining the age of superannuation gave rise to the aforementioned claim petition and on exchange of pleadings between the parties, the tribunal was of the opinion that the fixation of pay has not proceeded on the basis of any wrong facts or misleading statement made by the respondent-employee, thus, the recovery would not be made in view of the settled position of law laid down by the Hon'ble Apex Court in the case of **State of Punjab and others versus Rafique Maseeh and others reported in (2015) 4 SCC 334.**

5. The judgment rendered by the learned tribunal in our considered opinion is well reasoned and proceeds in the right perspective of law.

6. That being so, interference under Article 226 of the Constitution of India in the impugned judgment is uncalled for .

7. The writ petition being bereft of any merit is accordingly dismissed.

[Subhash Vidyarthi,J.] [Attau Rahman Masoodi, J.]

Order Date :- 18.12.2024

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