Court No. - 5

Case :- WRIT - A No. - 11594 of 2024

Petitioner :- Phool Chand Yadav And Another
Respondent :- State Of U.P. Thru. Secy. Secondary Edu. U.P. Lko. And 5 Others
Counsel for Petitioner :- Om Prakash Mani Tripathi
Counsel for Respondent :- C.S.C.

Hon'ble Abdul Moin,J.

1. Heard learned counsel for the petitioners and Sri Vivek Shukla, learned Additional Chief Standing Counsel appearing for the respondents no.1 to 4.

2. No notice need be issued to the respondents no.5 and 6 taking into consideration the nature of order proposed to be passed more particularly considering that the order impugned dated 27.09.2024 has been passed by the District Inspector of Schools, Pratapgarh i.e. respondent no.4.

3. The contention of learned counsel for the petitioners is that the petitioners had filed various petitions before this Court praying for payment of salary on a Class IV post as well as a direction to create two Class IV posts in the institution.

4. The last writ petition filed by the petitioners was Writ A No.6982 of 2013 in re: Phool Chand Yadav and another vs. State of U.P. and others, which has been decided vide judgment and order dated 13.02.2024, a copy of which is Annexure-13 to the petition.

5. The writ Court by means of the aforesaid judgment had quashed the earlier rejection order which was against the petitioners, dated 20.08.2013. The respondents no.2 and 4 collectively were directed to reconsider the aspect of creation of more Class IV posts than five in accordance with the directions passed by this Court in the earlier round of litigation namely in Writ Petition No.2986 (SS) of 2009 decided on 22.01.2013. The competent authority was also required to consider creation of supernumerary Class IV posts for the purpose of payment of salary and other benefits to the petitioners in lieu of the fact that they have admittedly been appointed in the year 1992 with approval being accorded by the DIOS.

6. It is contended that though the respondent no.4 i.e. DIOS,

Pratapgarh, has passed an order in purported compliance to the judgment of this Court dated 13.02.2024 yet a perusal of the said order would indicate that the said judgment and the observations made therein have not been discussed while doing 'sameeksha/analysis' of the case of the petitioners and claim of the petitioners has been rejected.

7. The contention is that although in one part of the order impugned reference has been given to the said judgment but it was in the fitness of the things that even in the analysis the said judgment should have been considered but the respondents have failed to even consider the said judgment while passing the order impugned as such the order impugned merits to be set-aside on this ground alone.

8. A perusal of the order impugned dated 27.09.2024 would indicate that although the respondent no.4 has referred to the judgment passed by the writ Court dated 13.02.2024 yet in the analysis of the order, the observations and directions as given by this Court have not even been considered. Thus, there appears to be patent non-application of mind on the part of respondent no.4 while passing the order impugned.

9. Considering the aforesaid, the petition is allowed. The order impugned dated 27.09.2024, a copy of which is Annexure-1 to the petition, is quashed. The matter is remitted to respondent no.4 to pass a fresh order keeping in view the directions issued by the writ Court dated 13.02.2024.

10. Let such an order be passed within a period of four weeks from the date of receipt of a certified copy of this order.

Order Date :- 4.12.2024
A. Katiyar

Digitally signed by :-
AMIT KATIYAR
High Court of Judicature at Allahabad,
Lucknow Bench