

Court No. - 17

Case :- WRIT - A No. - 793 of 2024

Petitioner :- Umashankar Pathak

Respondent :- Managing Director Pradeshik Co-Operative Dairy Federation Ltd. Lko And 2 Others

Counsel for Petitioner :- Amar Nath Dubey, Anil Kumar Yadav

Counsel for Respondent :- Shanker Lal, C.S.C., Pankaj Patel

Hon'ble Manish Mathur, J.

1. Counter affidavit filed today is taken on record.
2. Heard learned counsel for petitioner, learned State counsel for opposite party no. 2 and Mr. Pankaj Patel, learned counsel for opposite party no. 3 while notice on behalf of opposite party no. 1 has been accepted by Mr. Shankar Lal Advocate.
3. Petition has been filed challenging orders dated 25.09.2023/ 06.10.2023 only to the extent whereby admissible dues of petitioner have been denied due to financial crunch.
4. It has been submitted that petitioner superannuated from service in the year 2016 but thereafter has not been paid the admissible post retiral benefits pertaining to 19 and 24 years ACP.
5. Learned counsel appearing on behalf of opposite parties have submitted that although dues of petitioner are admitted but payment thereof can not be made due to financial crunch being faced. It is quite evident from perusal of impugned order itself that the opposite parties have admitted the dues of petitioner but refrain from payment of same on account of poor financial condition.
6. In the considered opinion of this Court, such a ground is not available to opposite parties once the dues of petitioner are admitted pertaining to service benefits.
7. Learned counsel has also placed reliance on judgment rendered in similar circumstances in writ petition No. 922 (S/S) of 2021, Ram Raj Singh and others versus State of U.P. and others in which a similar question was under consideration and was also allowed by means of judgment and order dated 13th January, 2021.

8. In view of aforesaid, the impugned orders dated 25.09.2023/06.10.2023 are hereby quashed by issuance of writ in the nature of Certiorari only to the extent it denies payment of admissible dues to petitioner due to financial crunch. The opposite parties 2 and 3 i.e. Milk Commissioner/Registrar, Dugdha Sahkari Samitiyan U.P. Lucknow and General Manager, Producers Co-operative Milk Union Ltd., Prayagraj respectively are directed to take a decision with regard to grant of such benefits to petitioner upon completion of satisfactory service for the aforesaid time period. Such consideration shall be made by the opposite parties collectively within a period of eight weeks from the date a certified copy of this order is produced before the concerned authorities. In case petitioner is found entitled for the said benefits, actual benefit thereof shall also be ensured within a period of three months thereafter.

9. Consequently the petition succeeds and is **allowed** to the aforesaid extent. Parties to bear their own costs.

Order Date :- 29.2.2024

Satish