

Court No. - 29

Case :- SPECIAL APPEAL No. - 648 of 2024

Appellant :- State Of Up Through Additional Chief Secretary Basic Education Government Of Up And 4 Others

Respondent :- Rama Shankar Tiwari

Counsel for Appellant :- Abhishek Srivastava, Tej Bhanu Pandey

Counsel for Respondent :- Kedar Nath Mishra, Samarath Singh

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard Shri Ashok Mehta, learned Addl. Advocate General assisted by learned Standing Counsel for the appellants-respondents and learned counsel for respondent-petitioner.

2. On the matter being taken up on 23.08.2024, the Court has proceeded to pass a detailed order, the operative portion of which, for ready reference, is reproduced as under:-

".....4. In response to the directions issued by learned Single Judge vide order dated 30.5.2018, Assistant Director of Education, Gorakhpur Region, Gorakhpur considered the claim set up by the respondent-petitioner and while passing the order dated 11.9.2019 had directed to release the salary in favour of the respondent-petitioner for the period January, 2008 to July, 2015. In this backdrop, Sri Mehta, learned Senior Advocate for the appellants fairly states that even though in response to the earlier order, the Authority concerned had categorically opined that the respondent-petitioner worked in the institution concerned from January 2008 to July 2015, whereas, learned Single Judge while passing the order impugned in most arbitrary manner has proceeded to accord the salary to the respondent-petitioner since May 1998 for the period in which, he had not worked, which is also contrary to the record.

5. Meanwhile, in the aforesaid factual situation before entertaining the instant appeal, let the Authority concerned to show its bonafide, quantify the amount w.e.f. January 2008 to March 2017 (date of superannuation) and place a Draft so that we may proceed on merits of the case.

6. Put up this matter on 10.09.2024 as fresh."

3. It is very unfortunate that instead of complying with the aforesaid order, the State-appellants are trying to highlight certain discrepancies, even though while passing the aforesaid order the onus was shifted upon the Authority to quantify the amount w.e.f. January 2008 to March 2017 and place a draft so that the Court may proceed on merits of the matter.

4. The competent authority is directed to comply with the aforesaid order dated 23.08.2024 in letter and spirit by the next date, failing which the Court would have no other option except to ensure presence of the competent authority.

5. Confronted with this, learned Addl. Advocate General fairly states that some breathing time may be accorded so that the order dated 23.08.2024 may be complied with. On his request, put up this matter as fresh on 19.09.2024.

Order Date :- 10.9.2024

SP/