

Court No. - 33

Case :- WRIT - A No. - 2791 of 2016

Petitioner :- Ram Sahay Dubey

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Shruti Malviya,Lal Vijai Singh

Counsel for Respondent :- C.S.C.

Hon'ble Ashwani Kumar Mishra,J.

Following orders were passed on 09.11.2017:

"There is dispute relating to the absence of the petitioner in service from 01.08.2012 to 06.02.2014. The petitioner has already attained to age of superannuation on 13.04.2014. According to the petitioner, he has moved an application for grant of medical leave but it has not been considered. Thus, the fact remain that appropriate authority has not passed any order in relation to absence of the petitioner during that period. Whether the petitioner is entitled for medical leave, earned leave and casual leave etc. have to be examined by the appropriate authority.

In the fact of the case, an interim mandamus is issued directing the Chief Medical Officer to consider the representation as well as various certificate relating to the petitioner in respect of his absence during 01.08.2012 to 06.02.2014 and pass appropriate order within a period of one month. The petitioner is given liberty to file the copies of the application as well as all the medical certificate etc. before Chief Medical Officer along with certified copy of this order within a period of ten days. As to whether, the petitioner was not permitted to join, although he submit his joining, may also be considered.

List in the second week of January, 2018."

Petitioner's claim, however, has been rejected on the ground that no material has been placed by him in respect of his plea of illness despite an opportunity given to the petitioner.

Counsel for the petitioner states that no such opportunity was given and the documents evidencing petitioner's illness otherwise are on record.

Before proceeding further, it would be appropriate to permit the petitioner to approach respondent no.4, once again, alongwith all documents/details with regard to his illness and subsequent attempt to join in terms of the government order dated 05.03.2013. Such claim of the petitioner shall be considered by the Chief Medical Officer, Maharajganj, after getting the facts ascertained in that regard. For such purposes petitioner shall appear before the respondent no.4 on 04.10.2021. Required consideration would be made by the authority concerned within a period of one month, thereafter.

List this matter in the additional cause list on 10.11.2021.

Order Date :- 16.9.2021

Ashok Kr.