

Subhash vs Deen Dayal Upadhyay Nd 2 Others on 2 January, 2025

Author: Saurabh Shyam Shamshery

Bench: Saurabh Shyam Shamshery

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:277

Court No. - 10

Case :- WRIT - A No. - 14504 of 2024

Petitioner :- Subhash

Respondent :- Deen Dayal Upadhyay Nd 2 Others

Counsel for Petitioner :- Pramod Pathak

Counsel for Respondent :- Vivek Kumar Rai

Hon'ble Saurabh Shyam Shamshery, J.

1. Heard Sri Pramod Pathak, learned counsel for petitioner and Sri Ravi Prakash, Advocate holding brief of Sri Vivek Kumar Rai, learned counsel for Respondent-University.

2. This Court passed following order on 21.03.2023 in Writ-A No. 59974 of 2014 when petitioner approached this Court earlier:

?Heard learned counsel for the petitioner and learned counsel for the respondents.

Petitioner has approached this Court seeking following relief:

"To grant, allow and pay the assured career pay scale/pay band and other benefit including salary arrears in the pay scale of Rs.5200-20,200/-GP-2400/- as per the calculation in the noting/sanction order dated 09.08.2010/10.08.2010 made and approved by the respondent authorities as contained in Annexure No. 4 to the writ petition, w.e.f. 06.08.1996 till the date of his retirement along with 18% interest on the arrears."

Learned counsel for petitioner submits that grievance of petitioner would sufficiently be met in case representation of petitioner for the said purposes is considered and decided in a time bound manner.

Shri Shashi Prakash Rai, learned counsel for the respondents has no objection to the same.

In view thereof, petitioner is permitted to make a fresh detailed representation to respondent no.2-Registrar/Deputy Registrar, Deen Dayal Upadhyay, Gorakhpur University Gorakhpur, raising all his grievance, annexing therewith a copy of this writ petition along with annexures and all the documents in support of his claim within a period of two weeks from today along with a certified copy of this order.

In case such a representation is moved by petitioner, respondent no.2 shall consider and decide the same in accordance with law by a reasoned and speaking order within a period of two months from the date a certified copy of this order along with representation is placed before him.

It is made clear that this court has not applied itself on the merits of the case and all questions are left open to be considered and decided by the competent authority in accordance with law.

With the aforesaid directions, the writ petition is disposed of.?

3. In compliance of above order, District Inspector of Schools, Gorakhpur has passed an order and granted amount of about Rs. 1.98 lacs on basis of a calculation.

4. Learned counsel for petitioner submits that petitioner is still aggrieved since entire payment in accordance with law is not provided and, therefore, present writ petition is filed. An amendment application is also filed for enlarging the scope of prayer, i.e., to grant, allow and pay all assured arrears of pay scale/ pay band and other benefits including salary arrears and consequential pensionary benefits from 22.05.1978 to 06.08.1996 which was not considered and paid by order dated 01.04.2024.

5. Learned counsel for Respondent-University has raised a preliminary objection that prayer, as made in writ petition as well as in amendment application, is barred by principle of constructive res judicata as petitioner has full opportunity to raise all his grievance when he has filed first writ petition.

6. Learned counsel for petitioner submits that prayer is based on subsequent events since on basis of calculation made in pursuance of earlier order passed by this Court, petitioner is entitled for other relief also. Learned counsel refers para 15 of writ petition that it was a bona fide mistake since some facts were not mentioned in first writ petition. For reference para 15 of writ petition is reproduced hereinafter:

¶15. That the Finance Officer calculated the arrear of the petitioner from the dated 07.08.1996 to 24.07.2013 (the date of retirement) amounting Rs. 1,98,004/-. It is important to mention here that the respondent authorities has calculated the arrears of petitioner w.e.f. 06.08.1996 though he became permanent on 22.05.1978. In the earlier writ petition, unfortunately the date was written as 06.08.1996. It is important to mention here that the respondent authorities have not given interest on the belated amount of arrear. A photocopy of calculation dated 12.06.2024 is being filed herewith and marked as Annexure No. 9 to this writ petition.?

7. I have considered above submissions and since it is a matter of pension, therefore, an opportunity is granted to petitioner to make a fresh representation alongwith all necessary documents and if such a representation is filed within four weeks from today, concerned respondent will consider the same in accordance with law and take appropriate reasoned decision, as earlier as possible. It is made clear that this Court has not entered into merit of case, i.e., whether claim of petitioner is legally admissible or not.

8. With aforesaid observations/ directions, this writ petition is disposed of.

Order Date :- 2.1.2025 AK