

Case :- WRIT - A No. - 18197 of 2021

Petitioner :- U.P. Lekhpal Sangh Through Its Treasurer Vinod Kumar Kashyap

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- S.K. Srivastava, Sr. Advocate

Counsel for Respondent :- C.S.C.

Hon'ble Prakash Padia, J.

Heard Sri Ashok Khare, learned Senior Counsel assisted by Sri S.K. Srivastava, learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner has preferred the present writ petition with the following prayer:-

"(i) Issue a writ, order or direction in the nature of mandamus directing the respondents to treat the petitioner Nos.3 to 8 and similarly situated other Lekhpals whose selection and training were completed in the Session year 2003-04 upto August 2004, prior to 01/04/2005 on the date enforcement of New Pension Scheme and same may be treated as governed by the Old Pension Rules.

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondents to make a regular deduction towards General Provident Fund (under Old Pension Rules) instead of deduction in terms of new Pension Scheme regularly every month from the salary of this petitioners."

It is argued by learned Senior Counsel that identical controversy has already been settled by a Co-ordinate Bench of this Court vide order dated 27.11.2015 passed in Writ A No.42840 of 2015 (Pramod Kumar Srivastava And 50 Others Vs. State Of U.P. And 2 Others). The aforesaid order is quoted below:-

"Heard Shri Ashok Khare, learned senior counsel assisted by Shri Siddharth Khare for the petitioners and Shri Vikram Bahadur Yadav, learned standing counsel for the respondents.

The petitioners are claiming the benefit of Old Pension Scheme instead of New Pension Scheme which according to them has been enforced on 1.4.2005. The contention is that since the selection proceedings for the post of Lekhpal commenced prior to 1.4.2005 and have completed after 1.4.2005 they should be held entitled to the benefit of the Old Pension Scheme. Reference has been placed upon the decision of the Single Bench as well as of the Division Bench of the Uttarakhand High Court.

Shri Ashok Khare submits that pending decision of the controversy the respondents may be directed to deduct the G.P.F. from the salary of the petitioner otherwise in case it is held that the petitioners are entitled to the Old Pension Scheme, a huge amount would have to be recovered from their salary.

Therefore by way of interim protection it is provided that the respondents shall deduct the G.P.F. amount from the salary of the petitioners which shall be subject to the final outcome of the writ petition.

Learned standing counsel has not been able to file the counter affidavit. Let him file a counter affidavit within six weeks.

List thereafter."

Learned Senior Counsel prays that in view of the aforesaid order, the petitioner is entitled for interim protection.

Learned Standing Counsel prays for and is granted six weeks time to file counter affidavit.

Rejoinder affidavit, if any, may be filed within two weeks thereafter.

Therefore by way of interim protection it is provided that the respondents shall deduct the G.P.F. amount from the salary of the petitioner Nos.3 to 8 which shall be subject to the final outcome of the writ petition.

List and connect with Writ A No.42840 of 2015 (Pramod Kumar Srivastava And 50 Others Vs. State Of U.P. And 2 Others).

Order Date :- 15.12.2021
saqlain