

Dev Prakash Sharma Vs. District Inspector of Schools, Aligarh and ors.

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Court : Allahabad

Decided On : Dec-18-2001

Reported in : 2002(1)AWC361; [2002(92)FLR619]; (2002)1UPLBEC667

Judge : Anjani Kumar, J.

Acts : Uttar Pradesh Secondary Education Services Selection Board Act, 1982 - Sections 17 and 18

Appeal No. : C.M.W.P. No. 35729 of 2001

Appellant : Dev Prakash Sharma

Respondent : District Inspector of Schools, Aligarh and ors.

Advocate for Def. : H.P. Singh, S.C.

Advocate for Pet/Ap. : J.J. Munir, Adv.

Judgement :

Anjani Kumar, J.

1. Heard learned counsel for the petitioner, learned standing counsel for respondent No. 1 and Sri H.P. Singh. learned counsel for the respondent No. 2 and perused the counter affidavit filed by Smt. Manju Singh.

2. In paragraph Nos. 13 and 14 of the counter-affidavit, it is stated by Smt. Manju Singh, District Inspector of Schools concerned that since the Committee of Management has already passed a resolution, within sixty days from the date of suspension and submitted the proposal of punishment in the form of compulsory retirement of the petitioner Dev Prakash Sharma, thereafter District Inspector of Schools has fixed dates for hearing the petitioner and the Committee of Management, as required, before making the approval/disapproval to the proposed compulsory retirement of the petitioner Dev Prakash Sharma. This statement is contrary to law and cannot be accepted. The proposal of punishment of teacher by the Committee of Management can be approved or disapproved only by U. P. Secondary Education Service Selection Board under the provisions of U. P. Secondary Education Service Selection Board Act, 1982 and the District Inspector of Schools has nothing to do in the matter. District Inspector of Schools is only the Post Office to transmit the relevant papers to the Board.

3. It is also settled by the Full Bench of this Court that in the matter of suspension of a teacher, the District Inspector of Schools does not become functus-officio and can even pass orders after expiry of sixty days and can still decide the matter of approval of suspension.

4. In the facts and circumstances of the case, the only decision that can be taken is that of the approval of suspension till the matter of punishment is finally approved or disapproved by the Selection Board. In this view of the matter, the Impugned order dated 26th July, 2001, deserves to be quashed so far as it directs the payment of salary to the petitioner. Petitioner shall continue to be suspended. He will be entitled for subsistence allowance.

5. In view of what has been stated above, the relief that can be granted to the petitioner is that the Impugned order dated 26th July, 2001 passed by the District Inspector of Schools, Allgarh. Is quashed. Smt. Manju Singh, District Inspector of Schools, Allgarh. shall pay Rs. 2.500 as costs to the petitioner.

6. With the aforesaid observation, this writ petition is disposed of finally.

