

Devendra Singh Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Dec-19-2003

Reported in : 2004(2)AWC1152

Judge : N.K. Mehrotra, J.

Acts : Uttar Pradesh Secondary Education Service Selection Board Act, 1982 - Sections 33A

Appeal No. : Writ Petition No. 7446 (S/S) of 2003

Appellant : Devendra Singh

Respondent : State of U.P. and ors.

Advocate for Def. : S. Chandra, Adv.

Advocate for Pet/Ap. : Ramesh Pandey, Adv.

Judgement :

N.K. Mehrotra, J.

1. This is a writ petition for issuing a writ of certiorari quashing the order dated 30.9.2003, passed by the Joint Director of Education, Faizabad Region and to remand the matter before the Joint Director of Education for decision on question of petitioner's grievance of regularisation and seniority in lecturers grade of Ram

Charana Inter College, Ghatauli, Post Ghatauli, district Faizabad and for a writ of mandamus commanding the Joint Director of Education to consider the petitioner's grievance of regularisation and seniority in lecturers grade of Ram Charana Inter College, Ghatauli, district Faizabad.

2. Heard the learned counsel for the petitioner and the opposite parties 1, 2, 5 and 7. No counter-affidavit has been filed and the learned counsel for the opposite parties have no objection if the permission for remand of the matter is allowed.

3. The grievance of the petitioner is that for his regularisation which has not been done by the opposite parties. There is also a dispute of seniority between the petitioner and the opposite party No. 7. The petitioner was given ad hoc appointment, His services were terminated. He filed Writ Petition No. 3526 of 1985. The writ petition was allowed on 6.8.1985. The High Court directed, that the ad hoc teachers are to be allowed to continue in service till further orders. The copy of the judgment is Annexure-4. The petitioner claims his regularisation in accordance with provision under Section 33A of the U. P, Secondary Education Service Selection Board Act, 1982. The dispute of seniority in lecturer grade arose on the occurrence of vacancy of the post of Principal with effect from 1.7.2002. According to the petitioner. Mr. Gaya Prasad Vishwakarma opposite party No. 7 was appointed as officiating Principal ignoring his seniority. The petitioner filed a Writ Petition No. 897 (S/S) of 2003 and sought the quashing of the resolution of the committee. This writ petition is pending. He preferred an appeal before the Joint Director of Education on 27.9.2002 and requested to consider the claim of his seniority in accordance with Rules. Copy of the appeal is Annexure-8. The petitioner has come to know that he has been given regularisation from 6.4.1991, vide order dated 4.2.1995, issued by the D.I.O.S., Faizabad. He never came to know about this order. He claims his regularisation from 1.8.1984 in view of Section 33A. The petitioner filed Writ Petition No. 2110 (S/S) of 2003 and sought relief of mandamus commanding the Joint Director of Education, Faizabad to consider and decide his grievance of regularisation on the post of lecturer in Hindi. This Court disposed of the writ petition on 16.4.2003 and directed the Joint Director of Education to decide the grievance of the petitioner regarding his regularisation/substantive appointment in lecturers grade. Copy of the order of this

Court is Annexure-12. The petitioner made representation to the Joint Director of Education on 15.5.2003, as contained in Annexure-13. One Mr. Greshwar Singh also filed an appeal before the Joint Director of Education challenging the appointment of Shri Gaya Prasad Vishwakarma opposite party No. 7 as officiating Principal. His representation was decided on 27.2.2003. The judgment in Writ Petition No. 642 (M/S) of 2003 is Annexure-14 but the Joint Director of Education has not complied with the order of this Court in the true spirit and has circumvented the order by directing the petitioner and Sri Greshwar Singh to refer the matter to the committee of management and directing them that the aggrieved party can file the appeal before the Joint Director.

4. After hearing both the parties and seeing the judgment of this Court in Writ Petition No. 2110 (S/S) of 2003 and Writ Petition No. 642 (M/S) of 2003, I am of the view that the Joint Director of Education has not decided the representation as directed by this Court in Writ Petition No. 2110 (S/S) of 2003. Therefore, the writ petition is allowed with the consent of the learned counsel for the petitioner and opposite party No. 7. The impugned order as contained in Annexure-1 is quashed. Joint Director of Education is directed to decide the representation of the petitioner with regard to his regularisation and infer se seniority after deciding the contentions raised by the petitioner in his representation and after giving due opportunity to all the affected parties including the opposite party No. 7 within a period of six weeks from the date a certified copy of this order is served on the Joint Director of Education, Faizabad by the petitioner himself.

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