

Ram Pyare Tripathi Vs. District Inspector of Schools and anr.

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Court : Allahabad

Decided On : Aug-13-2003

Reported in : [2004(101)FLR331]

Judge : S.N. Srivastava, J.

Acts : Uttar Pradesh Secondary Education Services Commission and Selection Boards Act, 1982 - Sections 18; Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties) Order, 1981

Appeal No. : C.M.W.P. No. 15567 of 1988

Appellant : Ram Pyare Tripathi

Respondent : District Inspector of Schools and anr.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Shah Om Prakash Agarwal, Adv.

Disposition : Petition allowed

Judgement :

ORDER

S. N. Srivastava, J.

1. Dispute in the writ petition relates to appointment of petitioner as an ad hoc L.T. Teacher. Petitioner was appointed as C.T, grade Teacher in S.B. Inter College Tehri Captainganj, Azamgarh (hereinafter referred to as 'Institution') on 18.10.1981. A post of L.T. grade fell vacant in the year 1987. By resolution dated 6.10.1987 petitioner was promoted as L.T. grade teacher, District Inspector of Schools by order dated 5.4.1988 directed College to submit complete papers. Papers were submitted to District Inspector of Schools. The District Inspector of Schools by letter dated 5.4.1988 further directed to submit further detail which was again submitted by Manager on 13.4.1988. The District Inspector of Schools by letter dated 12.7.1988 rejected promotion as L.T. grade teacher for not having five years substantive service as C.T. grade.

2. Heard learned counsel for petitioner and learned standing counsel.

3. At the relevant time appointment as ad hoc teacher in L.T. grade was made under Section 18 of U. P. Secondary Education Services Commission and Selection Boards Act, 1982 (hereinafter referred to as 'Act'). Section 18 of the Act as well as U. P. Secondary Education Services Commission (Removal of Difficulties) Order, 1981 was part of one integrated scheme for appointing ad hoc teachers urgently required for teaching work in the Institution and as such procedures prescribed under Removal of Difficulties Order, 1981 are applicable to the proceedings for appointment/promotion as L.T. grade/C.T. grade on ad hoc basis.

4. Full Bench decision in Radha Raizada and Ors. v. Committee of Management, Vidyawati Darbari Girls Inter College and Ors., 1994 (3) UPLBEC 1551, laid down law on this question.

5. Under Removal of Difficulties Order, 1981, five years substantive service as C.T. grade was not required for ad hoc promotion to L.T. grade teacher. Paragraphs 4 (3) and 6 relating to eligibility of ad hoc are quoted below for ready reference :

'4. Ad hoc appointment by promotion.--(3) Every vacancy in the post of a teacher in the trained graduate (L.T.) grade shall be filled by promotion by the senior most

teacher of the institution in the trained under-graduate (C.T.) grade.

6. Eligibility for appointment. --Every appointment of a teacher under Paragraph 4 or 5 shall be subject to the following conditions, namely : (c) The candidate sought to be appointed by promotion under paragraph 4 must have been serving the institution in substantive capacity from before the date of commencement of this order.'

6. In the present case, petitioner was appointed as an ad hoc C.T. grade teacher on 18.10.1981 by Committee of Management which was duly approved by District Inspector of Schools under the U. P. Secondary Education Services Commission (Removal of Difficulties) Order 1981. He was in possession of qualification under U. P. Intermediate Education Act, 1921 and was continuously working as C.T. grade teacher on date of his promotion as an ad hoc L.T. grade Teacher as such he shall be deemed to be substantive teacher in C.T. grade appointed by operation of law on date of commencement of U. P. Act No. 19 of 1985. Section 33A was added in the U. P. Act No. 19 of 1985. For ready reference the same is extracted below :

'33A. Regularisation of certain appointments.--(1) Every teacher directly appointed before the commencement of the U. P. Secondary Education Services Commission and Selection Boards (Amendment) Ordinance, 1985 on ad hoc basis against a substantive vacancy in accordance with paragraph 2 of the U. P. Secondary Education Services Commission (Removal of Difficulties) Order, 1981 as amended from time to time, who possesses the qualifications prescribed under, or is exempted from such qualification in accordance with the provisions of the Intermediate Education Act, 1921, shall, with effect from the date of such commencement, be deemed to have been appointed in a substantive capacity provided such teacher has been continuously serving the institution from the date of such appointment up to the date of such commencement.'

7. I have already referred relevant paragraph 6 relating to eligibility for ad hoc appointment/promotion. Only requirement for ad hoc promotion as L.T. teacher was that a teacher should be working in C.T. grade in substantive capacity on the date of promotion. As the petitioner, who was deemed to be substantively

appointed C.T. grade teacher under U. P. Act No.19 of 1985, his promotion to the post of L.T. grade teacher was rightly made in accordance with law. The District Inspector of Schools acted illegally in refusing to accord financial approval on the vacant post for not having completed 5 years substantive service. From record, it transpires that petitioner was allowed to work under the interim order granted by this Court on 16.8.1988.

8. With the result, writ petition succeeds and is allowed. Impugned order dated 12.7.1988 is quashed. District Inspector of Schools concerned is directed to pass appropriate orders including payment of arrears of salary in accordance with law considering the observations made above.

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