

Arjun Vs. Deputy Director of Education Ivth Region and ors.

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Court : Allahabad

Decided On : Aug-24-2004

Reported in : (2004)3UPLBEC2999

Judge : Tarun Agarwala, J.

Acts : Uttar Pradesh Secondary Education Service Selection Board Act, 1982 - Sections 21; Uttar Pradesh Intermediate Education Act, 1921 - Sections 16G(3); Uttar Pradesh Secondary Education Service Selection Board Regulations - Regulations 36 and 37

Appeal No. : Civil Misc. Writ Petition No. 19845 of 1991

Appellant : Arjun

Respondent : Deputy Director of Education Ivth Region and ors.

Advocate for Def. : Ashok Khare, Adv. and ;S.C.

Advocate for Pet/Ap. : I.N. Singh, ;Ajay Yadav and ;V.S. Dwivedi, Advs.

Disposition : Writ petition dismissed

Judgement :

Tarun Agarwala, J.

1. The petitioner was appointed as a C.T. Grade Teacher on 25.7.1972 and with effect from 1.8.1974, the petitioner was appointed as a teacher in L.T. Grade. Subsequently, by an order of the District Inspector of Schools, dated 22.9.1976, the petitioner was reverted to the post of C.T. Grade Teacher. On 18.5.1984, the petitioner was charge-sheeted. The petitioner gave his reply on 13.7.1984 which was not found satisfactory and accordingly the Disciplinary Authority initiated an inquiry proceeding and appointed an Inquiry Officer. The petitioner appeared before the Inquiry Officer and full opportunity was given to the petitioner to defend himself. The Inquiry Officer thereafter submitted his inquiry report on the basis of which the Committee of Management passed a resolution dated 16.12.1984 proposing to terminate the services of the petitioner. In pursuance to the resolution dated 16.12.1984, the petitioner was suspended on 17.12.1984, pending grant of approval from the District Inspector of Schools. The District Inspector of Schools by order dated 1/2.5.1990, approved the termination of the petitioner's services. The petitioner thereafter filed an appeal, which was dismissed by an order dated 18.5.1991, passed by the Deputy Director of Education. After the approval granted by the District Inspector of Schools, the petitioner made a representation dated 14.9.1990 against his reversion order dated 21.9.1976. This representation was rejected by the District Inspector of Schools vide order dated 7.3.1992. The petitioner has now filed the present writ petition for quashing the order dated 1/2.5.1990, passed by the District Inspector of Schools, approving the termination of the services of the petitioner as well as the order dated 18.6.1991, passed by the Deputy Director of Education rejecting the appeal of the petitioner. The petitioner has also prayed for quashing the order dated 7.3.1992, whereby the representation of the petitioner for quashing the reversion order has also been rejected by the District Inspector of Schools..

2. Heard Sri I.N. Singh, the learned Counsel for the petitioner.

3. The learned Counsel for the petitioner submitted that the order of the District Inspector of Schools dated 22.9.1976 reverting the petitioner from the post of L.T. Grade to the post of C.T. Grade was wholly illegal inasmuch as the petitioner was fully qualified for being appointed to, the post of L.T. Grade. The petitioner, therefore, submitted that the District Inspector of Schools ought to have allowed

his representation dated 14.9.1990 and that the District Inspector of Schools had committing an error in rejecting the same by its order dated 7.3.1992.

4. The submission of the learned Counsel for the petitioner is devoid of any merit. The petitioner was reverted to his original post in C.T. Grade on 22.9.1976 and the said order was never challenged by him for 14 years. The petitioner questioned his order of reversion by making a representation before the Deputy Director of Education on 14.9.1990, i.e., after 14 years and that too after his services was terminated. His representation was rightly rejected by the Deputy Director of Education vide its order dated 7.3.1992. The petitioner has nowhere stated as to why he could not file an appeal earlier against the reversion order. In my view, the petitioner is not entitled to raise this grievance at this stage and this issue is liable to be dismissed on the ground of laches.

5. Learned Counsel for the petitioner next submitted that his services were termination 16.12 1984 which was wholly illegal and without jurisdiction inasmuch no prior approval was taken from the UP. Secondary Education Service Commission as constituted under the provisions of U.P. Secondary Education Service Selection Board Act, 1982. Alternatively, approval was required to be obtained from the District. Inspector of Schools before terminating his services, which was not done.

6. The argument of the learned Counsel for the petitioner is devoid of any merit. Section 21 of UP. Secondary Education Service Selection Board Act, 1982 provides that the Management shall not dismiss any teacher except with the prior approval of the Board. Section 21 was substituted by U.P. Act No. 1 of 1993 w.e.f, 7.8.1993. The services of the petitioner was terminated by an order dated 16.5.1990 and therefore, the approval was required from the District Inspector of Schools. Consequently, the provision of Section 21 are not applicable. Further, I find from the record that District Inspector of Schools had granted approval on 1/2.5.1990. Therefore, the submission made by the learned Counsel that no approval was given is wholly incorrect. The learned Counsel for the petitioner submitted that the services of the petitioner was terminated on 16.12.1984 and therefore, the consequential order of approval passed by the District Inspector of

Schools on 1/2.5.1990 was in a way redundant. The argument of the learned Counsel for the petitioner is devoid of merit. The Committee of Management resolved to terminate the services of the petitioner by its resolution dated 16.12.1984 and forwarded the papers to the District Inspector of Schools for approval as required under Section 16-G(3)(a) of Intermediate Education Act, 1921. The services of the petitioner was not terminated by the resolution of the Committee of Management, dated 16.12.1984. The Committee of Management only proposed the action of termination and forwarded the papers to the District Inspector of Schools, for approval. The approval was granted by the District Inspector of Schools on 1/2.5.1990 and based on that approval the Committee of Management passed the order of termination on 16.5.1990. The contention of the learned Counsel for the petitioner that the services of the petitioner was terminated on 16.12.1994, is wholly incorrect. The services of the petitioner was terminated by order dated 16.5.1990, copy of which has been annexed as Annexure-12 to the counter-affidavit. This averment has been made in Paragraph 12 of the counter-affidavit of respondent No. 3 which has not been denied by the petitioner. Thus the submission of the learned Counsel that the services of the petitioner was terminated on 16.5.1990, is wholly erroneous and devoid of any merit.

7. The learned Counsel for the petitioner, submitted that the inquiry which was conducted, was against the provisions of Regulations 36 and 37 of Chapter HI of the Regulations framed under the UP. Intermediate Education Act and that the petitioner was not supplied with a copy of the inquiry report and therefore, the petitioner was unable to give an effective reply to the show cause notice. The learned Counsel for the petitioner also submitted that in view of the proviso to Section 16-G(3) of the UP. Intermediate Education Act, the District Inspector of Schools was required to given an opportunity before passing the order of approval. Learned Counsel for the petitioner submitted that failure to supply a copy of the inquiry report resulted in violation of the principles of natural justice. In Paragraph 9 of the counter-affidavit it has been contended by the respondent No. 3 that the petitioner was personally present in the meeting of the Committee of Management which was held on 16.12.1984, in which the contents of the inquiry report was read out and thereafter the petitioner made oral objections which were considered by the Committee of Management. Paragraph 9 of the counter affidavit further stated

that the petitioner at no point of time ever asked for a copy of the inquiry report. These averments have not been denied by the petitioner. Consequently, it cannot be said that the principles of natural justice were violated. Further no averments has been made as to what prejudice has been caused to the petitioner for the non-supply of the inquiry report. In the absence of any prejudice being caused, the inquiry proceedings cannot be vitiated nor the order of termination would be quashed merely on the ground that a copy of the inquiry report was not supplied.

8. Even otherwise, the petitioner is not entitled to any relief inasmuch as the petitioner has not challenged the order of termination dated 16.5.1990. Until and unless the order dated 16.5.1990 is challenged the petitioner is not entitled to any relief.

9. In view of the aforesaid, there is no merit in the writ petition and it is dismissed with cost.