

(2010) 01 AHC CK 0113

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 4405 of 2010

Abdullah Faiz and Others

APPELLANT

Vs

State of U.P. Through Its Secretary (Higher Education) Civil
Secretariat, Lucknow and Others

RESPONDENT

Date of Decision : 29-01-2010

Acts Referred:

Citation : (2010) 01 AHC CK 0113

Hon'ble Judges : S.P.Mehrotra, J and Kashi Nath Pandey, J

Judgement

S.P. Mehrotra, and K.N. Pandey, JJ.—We have heard Shri P.S. Baghel, learned Senior Counsel assisted by Shri Gautam Baghel, learned counsel for the petitioners and Shri Pankaj Saxena, learned Standing Counsel appearing for the respondent nos. 1,2 and 3.

2. As per the averments made in the Writ Petition, the petitioners were selected for appointment on the post of Lecturer in various subjects in the institution in question, namely, Halim Muslim Post Graduate College at Kanpur, which is stated to be a minority institution. The said institution is affiliated with Chhatrapati Sahu Ji Maharaj University, Kanpur. The selection of the petitioners was made by a Selection Committee, constituted as per the provisions of Section 31(4) (d) of the U.P. State Universities Act, 1973. The Committee of Management of the said institution considered the recommendation of the Selection Committee in its meeting dated 13.2.2009, and it resolved to accept the recommendation of the Selection Committee in respect of the appointment of the petitioners.

3. The Committee of Management sent relevant papers with regard to the said selection to the ViceChancellor of the Chhatrapati Sahu Ji Maharaj University. The ViceChancellor by the communication dated 4.9.2009 (Annexure9 to the Writ Petition) granted his approval for the appointment of the petitioners, as per the provisions of Section 31(11) (a) of the U.P. State Universities Act, 1973. The Committee of Management issued appointment letters dated 5.9.2009 (Annexure10 to the Writ Petition), and the petitioners joined the said institution

on 5.9.2009 in pursuance of the said approval of the ViceChancellor dated 4.9.2009 and the appointment letters dated 5.9.2009.

4. The grievance of the petitioners is that even though they have been performing their duties as Lecturers since 5.9.2009, but their salary have not been paid by the respondent nos. 2 and 3, who are responsible for the payment of salary to the petitioners.

5. Shri P.S. Baghel, learned Senior Counsel appearing for the petitioners has referred to a Communication dated 5.12.2009 (Annexure14 to the Writ Petition) sent by the Regional Higher Education Officer, Kanpur Region, Kanpur (respondent no.3) to the Director, Higher Education, U.P., Allahabad (respondent no.2) seeking appropriate orders of the Director in the matter of payment of salary to the petitioners. It is submitted by Shri Baghel that the respondent no.2 has not as yet taken any decision in the matter.

6. Having regard to the facts and circumstances of the case and having considered the submissions made by Shri P.S. Baghel, learned Senior Counsel appearing for the petitioners and the learned Standing Counsel appearing for the respondent nos. 1,2 and 3, we are of the opinion that the interest of justice would be subserved by permitting the petitioners to make an application before the Director, Higher Education, U.P., Allahabad (respondent no.2) alongwith a certified copy of this order, and directing the respondent no.2 to take appropriate decision in the matter of payment of salary to the petitioners within a specified period.

7. We accordingly dispose of the Writ Petition with the following directions:

1. Within four weeks from today, the petitioners will submit an application alongwith a certified copy of this order before the Director, Higher Education, U.P., Lucknow (respondent no.2) .

2. On receipt of such application, the Director, Higher Education, U.P., Lucknow (respondent no.2) will take appropriate decision in the matter of payment of salary to the petitioners in accordance with law by passing a speaking order expeditiously, preferably within a period of six weeks from the date of receipt of the said application.

8. It is made clear that this Court has not adjudicated the claim of the petitioners on merits.