
(2008) 11 AHC CK 0117

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 27859 of 2008

Adya Prasad Mishra and others

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 12-11-2008

Acts Referred:

Citation : (2008) 11 AHC CK 0117

Hon'ble Judges : Dilip Gupta, J

Final Decision : Disposed Of

Judgement

Dilip Gupta, J.

This writ petition has been filed for quashing the order dated 25th April, 2008 passed by the Assistant Director of Education (Basic), VII Region, Gorakhpur whereby the claim of the petitioners for payment of salary has been rejected. It needs to be mentioned that earlier the petitioners had filed Writ Petition No. 70736 of 2006 which was disposed of by the judgment and order dated 22nd December, 2006 in terms of the judgment rendered by the Court on 18th October, 2006 in Writ Petition No. 57868 of 2006 (Tilak Singh Vs. State of U.P. & Ors.,).

A perusal of the said judgment in Tilak Singh (supra) indicates that the Director of Education (Basic) U.P. Lucknow, was directed to take appropriate action in the light of the observations made in the judgment.

In the writ petition, the petitioners have come out with a case that petitioner No. 1 was appointed in the Institution on 4th July, 1976, petitioner Nos. 2 and 3 were appointed on 1st July, 1977 and petitioner No. 4 was appointed in the month of November, 1976 and ever since then have been teaching in the Institution and voluminous documents show that the petitioners have been teaching in the Institution. The Basic Shiksha Adhikari by letter No. 3133/198889 dated 20th September, 1989 approved the appointment of the petitioners. It has further been stated that the Institution was put in the grantinaid list by the order dated

2nd December, 2006 but the Committee of Management did not deliberately include the names of the petitioners in the list of teachers and added certain other names.

Learned counsel for the petitioners has placed reliance upon the averments made in paragraphs 27 and 28 of the petition that on the date fixed, the petitioners appeared before the Assistant Director of Education (Basic) and made a submission that they may be supplied copies of the documents filed by the other side but without supplying the copies of the documents the Assistant Director of Education (Basic), passed the impugned order holding that the order dated 20th September, 1989 on which reliance was placed by the petitioners was a forged document. It is also the contention of the learned counsel for the petitioners that the Director of Education (Basic) U.P. Lucknow did not decide the matter and authorised the Assistant Director of Education (Basic), VII Region, Gorakhpur to decide the matter. He further submitted that voluminous documents were filed by the petitioners to show that they had been appointed as Assistant Teachers and they had been working throughout but these documents have not been considered.

Learned Standing Counsel on the other hand submits that a detailed order has been passed by the Assistant Director of Education (Basic), VII Region, Gorakhpur holding that the document dated 20th September, 1989 was a forged document and the petitioners were also not found present in the Institution on the date the inspection was made. He, therefore, submits that in such circumstances, the impugned order does not call for any interference.

I have heard learned counsel for the parties and have perused the materials available on record.

It is not in dispute that the directions issued by this Court were to the Director of Education (Basic), Lucknow to decide the matter but the Director on his own authorised the Assistant Director of Education (Basic) to decide the matter. This could not have been done.

This apart, the averments made in paragraphs 27 and 28 have not been specifically denied. The contention of the learned counsel for the petitioners, therefore, that the order had been passed without supplying the copies of the document on which reliance has been placed in the impugned order deserves to be accepted. It needs to be mentioned that the Assistant Director of Education (Basic) has placed reliance upon another order dated 20th September, 1989 filed by the Committee of Management and it is on the basis of this document that a finding has been recorded that the order dated 20th September, 1989 on which reliance was placed by the petitioners is a forged document.

In such circumstances, it is desirable that a fresh order should be passed in accordance with law by the Director of Education (Basic) in the light of the directions earlier issued by this Court after supplying the copies of the documents filed by the Committee of Management of the Institution and the

report of the Basic Shiksha Adhikari. This exercise should be done expeditiously, preferably within a period of six weeks from the date a certified copy of this order is produced by the petitioners before the Director of Education (Basic), U.P. Lucknow.

The impugned order dated 25th April, 2008 is, accordingly, set aside. The writ petition is allowed to the extent indicated above.