
(2012) 01 AHC CK 0699
In the Allahabad High Court
Case No : Service Single No. - 213 of 2012

Anil Kumar

APPELLANT

Vs

State Of U.P. and Others

RESPONDENT

Date of Decision : 13-01-2012

Acts Referred:

Citation : (2012) 01 AHC CK 0699

Hon'ble Judges : Devendra Kumar Upadhyaya, J

Bench : Single Bench

Advocate : O.P.M. Tripathi, for the Appellant;

Final Decision : Dismissed

Judgement

Hon"ble Devendra Kumar Upadhyaya, J.—Learned Standing counsel has accepted notice on behalf of the opposite party nos. 1 to 5. Issue notice to the opposite party nos. 6 and 7 returnable at an early date. 2. Learned counsel for the petitioner has to take steps within two days. Opposite parties shall file their counter affidavits within six weeks. Two weeks" time thereafter shall be available to the learned counsel for the petitioner to file the rejoinder affidavit, if he so desires.

3. List this case after expiry of the aforesaid period.

4. Assailing the order of transfer of the opposite party no.3 as contained in Annexure no.1 dated 23.12.2012, it has been submitted by the learned counsel for the petitioner that the petitioner has a claim of being promoted to the post against which the opposite party no.7 Km. Savita Singh has been transferred. He further states that in the College, the post of Lecturer (Economics) had fallen vacant since 30.06.2010 on account of retirement of Shri Banshraj Singh and the petitioner is fully eligible for consideration for promotion under the Rules on the said post. He also states that in the Institution there are four posts of Lecturer"s Grade, out of which as per Rules, two posts are meant for being filled up from amongst the Assistant Teachers of L.T.Grade by way of promotion. He also states

that at present only one post, out of the aforesaid four posts is filled up by way of promotion and rest three posts are lying vacant.

5. He has drawn attention of this Court towards Regulation 55 to 59 of the Regulations, in Chapter III framed under the provisions of the U.P. Intermediate Education Act, 1921 and has submitted that any transfer of a Lecturer can be done only on the recommendation to be made by a Committee to be constituted under Regulation 59 (2) (ga) of the aforesaid Regulations, according to which, the said committee comprises of Additional Education Director (Secondary), Additional Education Director (Basic) and the Joint Education Director (Women). He also states that in the instant case, there is no such recommendation for transferring the opposite party no.7 to the Institution where the petitioner is presently working as Assistant Teacher and is claiming promotion for the post of Lecturer.

6. Learned counsel for the petitioner has also drawn attention of the Court to the letter dated 11.11.2011 written by the Joint Education Director(Secondary) VI Circle, Lucknow stating therein that as required under the Regulations, the Institution where the opposite party no.7 was posted namely; Nari Shikshha Niketan has not given No Objection Certificate for the reason that she has yet not joined in the said Institution. He also stated that the matter relating to promotion of the petitioner is pending consideration before the authorities concerned as per directions issued by the National Scheduled Caste Commission. He also states that the opposite party no.7 has yet not completed 3 years" of service, hence, necessary directions be issued in this regard.

7. From the perusal of the aforesaid letter dated 11.11.2011, and in the light of the discussion above it is clear that prima facie the case of the opposite party no.7 transferring her has wrongly been dealt with and she appears to have been transferred against the provisions of the Regulations aforesaid. In view of above, the operation and implementation of the impugned order dated 23.12.2011 passed by the Additional Director of Secondary Education, the opposite party no.3 as contained in Annexure no.3 to the writ petition shall remain stayed till further orders of the Court.