

(1992) 05 AHC CK 0100

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 22906 of 1989

Anirudh Pandey

APPELLANT

Vs

Distt. Inspector of Schools and Others

RESPONDENT

Date of Decision : 01-05-1992

Acts Referred:

Uttar Pradesh Secondary Education Services Commission Rules, 1983 — Rule 9

Citation : (1992) 2 AWC 1055

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : R.G. Padia, for the Appellant;

Final Decision : Allowed

Judgement

M. Katju, J.—Petitioner is M.A. in Hindi but he did not do B. A. with Sanskrit as one of his subjects He was appointed as L. T. grade teacher in Kohra Sutawar Inter College. Sutawar, Deoria to teach High School classes on 8- 7-70 and his appointment was approved by the District Inspector of Schools in the same year. He has been teaching continuously since then. Respondent No. 4 was promoted to L. T. grade with effect from 6-1-74 and thus he was junior to the Petitioner. The seniority list of the Institution has been filed as Annexure 1 to the writ petition and it shows that the Petitioner is at Serial No. 16 and Respondent No. 4 is at Serial No. 18. The present dispute relates to the post of Lecturer in Hindi which fell vacant. The Committee of Management proposed the name of the Petitioner for appointment against this post. True copy of the proposal sent to the District Inspector of Schools is Annexure 3. The District Inspector of Schools made certain queries by letter dated 15-9-89 (Annexure 4) In this query the District Inspector of Schools enquired whether the Petitioner has done B. A. with Sanskrit. It appears that the management did not answer to the said query and hence the Petitioner made a representation to the District Inspector of Schools. True copy of the aforesaid representation is Annexure 5 to this petition Thereafter it appears that the management made a fresh proposal to the District

Inspector of Schools on 5-10-89 recommending the name of Respondent No. 4 instead of the Petitioner for appointment as Hindi Lecturer and accordingly Respondent No. 4 was approved and appointed. Aggrieved the Petitioner has filed this writ petition.

2. Respondent No. 4 has appeared and filed a counter affidavit in this case. It is stated in para 3 of the counter affidavit that the Petitioner does not possess the prescribed minimum qualification for appointment as Lecturer in Hindi because he had not done B. A. with Sanskrit. It is alleged in para 4 of the counter affidavit that the Petitioner never taught Hindi to High School classes and he has been teaching science and Mathematics. A rejoinder affidavit has been filed in which it is alleged that the Petitioner is eligible for appointment as Lecturer in Hindi.

3. After hearing learned Counsel for the parties I am of the opinion that the contention of the Petitioner is correct. The G.O. dated 16-3-1979 no doubt requires Sanskrit as a subject in B. A. for being appointed as Hindi Lecturer but this requirement is not necessary for a teacher who has been teaching in the institution before 5-4-75 (as stated in the G.O. dated 16-3-79 itself). Since the Petitioner was teaching in the Institution since 1970 hence it was not necessary that he should have done B. A. with Sanskrit for being appointed as Hindi Lecturer. Hence he was entitled to be appointed as Lecturer in Hindi. The Petitioner being senior most teacher was entitled to be appointed as Lecturer in Hindi in accordance with the amended Rule 9 of the U.P. Secondary Education Service Commission Rules, 1983 vide *Yogendra Nath Singh v. D.I.O.S.* 1991 UP LB EC 484, *Bharat Lal Tiwari Vs. State of U.P. and Others*, and *Bal Krishna Singh v. D.I.O.S.* 1988 UP LB EC 592.

4. Learned Counsel for the Respondents argued that the Petitioner has never taught Hindi classes and hence he is not eligible for being appointed as Hindi Lecturer. This contention has no force since admittedly the Petitioner has done M. A. in Hindi and he is qualified to be appointed as Lecturer in Hindi. In fact the point is no longer *res integra* after the decision of the division bench of this Court in *Sheo Shanker Lal's* case (*supra*) where it has been noticed that in the original Rule 9 the requirement for promotion was five years teaching experience in the concerned subject, whereas after the 1986 amendment the under lined words have been "deleted", and now it is no longer necessary that the teaching experience must be in the concerned subject.

5. The writ petition is accordingly allowed. The order of District Inspector of Schools dated 10-11-89 (Annexure 5 to the writ Petition) approving the appointment of the Respondent No. 4 as Hindi Lecturer, is quashed. The Respondents are directed to appoint the Petitioner as Hindi Lecturer within one month of production of certified copy of this order. No. order as to costs.