

**(2009) 09 AHC CK 0232**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 14433 of 2004

Awadhesh Prasad

APPELLANT

Vs

State of U.P. and others

RESPONDENT

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**Date of Decision :** 04-09-2009

**Acts Referred:**

**Citation :** (2009) 09 AHC CK 0232

**Hon'ble Judges :** Abhinava Upadhyaya, J

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## **Judgement**

Abhinava Upadhyaya, J.

Heard Shri S.P. Pandey, learned counsel for the petitioner as well as learned counsel for the respondent no. 4 and the learned standing counsel. None appears on behalf of the Committee of Management.

Shri Pandey, learned counsel for the petitioner submits that the petitioner was appointed as untrained teacher in a primary School known as Adarsh Anusuchi Primary Pathshala, Pipra, Kachhar, District Mau. He was being paid salary by the Committee of Management. The said institution was taken under the grantinaid list by the Social Welfare Department in the year 198182. According to the petitioner prior to the institution coming under the grantinaid list, there were six teachers in the institution. The petitioner was at serial no. 5. When the institution was aided by the Social Welfare Department only four posts were sanctioned, and therefore, the petitioner being at serial no. 5 was not accorded approval for payment of salary by the Department. It is further submitted that the committee of management continued the petitioner under its employment and also paid him salary from its own resources.

According to the learned counsel for the petitioner he is still employed in the institution and working as a teacher. In the year 1996, realising the need of more teachers the State authorities sanctioned two more posts of Assistant Teachers in the institution. It is alleged that since the petitioner was already teaching in the institution he claimed that he should be adjusted against one of the two newly

sanctioned posts, and applied for approval before the District Social Welfare Officer.

It appears that the authority for grant of approval for the purpose of payment of salary to the Assistant Teachers was taken away from the District Social Welfare Officer and now vests with the Director, Social Welfare, Lucknow, U.P.

It is difficult to understand that once an institution is taken under the grant in aid how can petitioner be allowed to work beyond the sanctioned posts in the institution up to the year 1996, when two more posts were sanctioned by the State authorities. It is also not clear as to what efforts did the petitioner make from the year 1996 up to the date of filing of the writ petition in the year 2004.

Although the learned counsel for the petitioner insists that the petitioner was working throughout all these years in the institution.

A counter affidavit has been filed on behalf of the committee of management, which has denied the contention of the petitioner. In paragraph no. 11 of the counter affidavit, it has been categorically stated that the petitioner was never appointed in the institution and the letter of appointment of the petitioner, which has been filed is a forged document. In paragraph no. 13 of the counter affidavit, it has been stated that the petitioner is not working in the institution, and therefore, he is not entitled for payment of any salary.

From the assertion made by the learned counsel for the petitioner and the stand taken in the counter affidavit the disputed question of facts are involved in the present case. Learned counsel for the petitioner at this stage confines his prayer only for a direction to the concerned authority i.e. Director, Social Welfare, Lucknow, U.P. to look into the grievance of the petitioner and pass appropriate orders. Learned counsel for the parties agreed that the writ petition may be disposed of finally.

Considering the submissions made by the learned counsel for the parties, it would be appropriate that the Director, Social Welfare, Lucknow, U.P. may look into the grievance of the petitioner and pass appropriate orders. For the aforesaid purpose the petitioner is at liberty to make representation to the concerned authority who may look into the same and pass appropriate orders in accordance with law.

Subject to the aforesaid observations, the present writ petition is finally disposed of.