
(2008) 12 AHC CK 0242

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 6106 of 1992

Between Viddyadhar Tripathi

APPELLANT

Vs

State of U.P.Through D.I.O.S.Deoria and another

RESPONDENT

Date of Decision : 16-12-2008

Acts Referred:

Uttar Pradesh Secondary Education Services Commission and Selection Boards Act, 1982 — Section 33A

Citation : (2008) 12 AHC CK 0242

Hon'ble Judges : S.U.Khan, J

Final Decision : Allowed

Judgement

S.U. Khan, J.—Heard learned Counsel for the parties.

2. According to the petitioner, a post of Lecturer in Sanskrit in Sri Hanuman Vidyamandir Inter College, Baraon, District Deoria was sanctioned by the Deputy Director of Education. Management sent the requisition to U.P. Secondary Education Service Selection Board through the District Inspector of School on 21.3.1985 and petitioner was appointed. It has further been stated that as no appointment was made by the Selection Board, hence Committee of Management through resolution dated 7.7.1985 appointed the petitioner on the said post under section 18 of U.P. Secondary Education Service Selection Board Act, 1982. It has further been stated that papers for grant of financial approval were sent to the D.I.O.S. on 9.7.1985 and D.I.O.S. through order dated 26.10.1985 granted the financial approval till regular candidate joined the post or till the end of Session whichever was earlier. It has been stated that petitioner was paid salary only till June, 1986. It has further been stated that petitioner made several representations from September, 1986 to November, 1990 but no salary was paid and then on 5.12.1991, petitioner claimed through representation that he was entitled to regularisation by virtue of ordinance dated 6.4.1991, through which section 33A was added in U.P. Secondary Education Service Commission and Selection Board Act, 1982 (later on it was converted into an Act). Prayer made in this writ petition is for direction to pay salary from

July, 1986 till date and to regularise the services of the petitioner.

3. In this writ petition, on 21.2.1992, an interim order was passed to the following effect :

"In the meantime, the petitioner is allowed to work as ad hoc teacher in lecturer grade and shall be paid his salary. "

Thereafter, writ petition was dismissed in default on 21.10.1992 but was restored on 29.3.1993. The case was again dismissed in default on 27.4.2007 and was restored on 23.9.2008 on which date arguments on merit were also heard.

4. The assertion, that after June, 1986, petitioner continue to work without salary is not, at all, believable. The alleged representations dated 9.9.1986 (Annexure7 to the writ petition) and 5.12.1991 (Annexure9 to the writ petition) are nothing but eyewash. There was absolutely no explanation as to why after two or three months of nonpayment of salary, petitioner did not come to the Court. The D.I.O.S. had approved the appointment only until 30.6.1986. Accordingly, there was absolutely no question for the D.I.O.S. to make payment of any further salary. The representations even if made were meaningless. The Supreme Court in C. Jacob v. Director,} has held that by filing representations, a claim cannot be kept live. It is abundantly clear that petitioner did not work from July, 1986 till the filing the writ petition in February, 1992. Further, as petitioner was not working since July, 1986, hence he was not entitled to any regularisation.

5. Accordingly, writ petition is dismissed.

6. However, it is clarified that whatever salary has been paid to the petitioner shall not be refundable. From today onward no salary shall be paid to the petitioner.

7. Office is directed to supply a copy of this order free of cost to learned Standing Counsel within a week.