

(1994) 04 AHC CK 0072

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 1578 of 1992

Bhanu Prakash Singh

APPELLANT

Vs

Chancellor, Agra University and Others

RESPONDENT

Date of Decision : 12-04-1994

Acts Referred:

Uttar Pradesh State Universities Act, 1974 — Section 31(3)

Citation : (1994) 2 AWC 1033

Hon'ble Judges : S.S. Sodhi, J;R.A. Sharma, J

Bench : Division Bench

Advocate : B.D. Mandhyan, for the Appellant; Pankaj Mithal, for the Respondent

Final Decision : Disposed Of

Judgement

S.S. Sodhi, J.—The matter here concerns the claim of the petitioner Bhanu Prakash Singh for regularisation of his services on the post of Lecturer in Physics in terms of Section 31(3)(c) of the U.P. State Universities Act, 1974 (hereinafter referred to as "The Act").

2. To give the relevant factual background, the petitioner was appointed as Lecturer in Physics on August 1, 1988. The initial appointment of the petitioner was till June 30, 1990 but this was later extended to July 31, 1991 and then again to January 31, 1992.

3. It was on January 13, 1992 that the petitioner filed the present writ petition seeking, amongst other relief?s, regularisation and confirmation in service. In the first instance, by an interim order the petitioner was allowed to continue on the post till February 28, 1992 and later by the order passed by the Division Bench on May 19, 1992 a direction was issued to the respondent. University to consider the case of the petitioner for regularisation of service. The matter went-up to the Supreme Court, where the Judgment of the Division Bench was set aside and the matter was remitted to this Court for reconsideration. This is how the matter now comes-up before us.

4. The main question that arises here is whether the petitioner was eligible for appointment, in terms of Section 31(3)(c) of the Act. According to Mr. Pankaj Mithal, counsel for the respondent University, the petitioner was not eligible as he did not possess the requisite qualification for the post on the date of his initial appointment, namely, of having passed the comprehensive test.

5. In dealing with this matter it would be pertinent to note that by virtue of the fact that he had passed the M. Phil examination in 1989 and had later done his Ph.D. in 1992, the petitioner was no longer required to pass any comprehensive test, In other words, with effect from December 31, 1991 it was no longer necessary for the petitioner to have also passed the comprehensive test, which means that had he been appointed on January 1, 1992, he would have been fully qualified for the post. If so, it would indeed be anomalous to hold that a person possessing the same qualification, as those of the petitioner but appointed on January 1, 1992, would be eligible for regularisation on the post of Lecturer but merely because the petitioner had been appointed earlier he has to be treated as in-eligible.

6. All that the learned Counsel for the respondent University sought to contend, faced with this situation, was that a plain reading of the provisions of Sub-clause (ii) of Section 31(3)(c) of the Act reader it incumbent that the petitioner should have possessed the requisite qualifications on the date of his initial appointment which, as mentioned earlier was August 1, 1989, on which date passing of the comprehensive test was an essential part of such qualifications, To accept this contention, in the context of, one appointed on January 1, 1992, with the qualification possessed by the petitioner on that date, being eligible for regularisation but not the petitioner, merely because he had been appointed earlier, would be imputing absurdity to the legislature, which can not indeed be countenanced.

7. Keeping, therefore, the entire circumstances of the case in view, the petitioner has necessarily to be held eligible for appointment in terms of Section 31(3)(c) of the Act and consequently, a direction is hereby issued to the respondent University to consider him for regular appointment in service in terms of this provision of law.

8. Further a plea was sought to be raised by the learned Counsel for the petitioner that the petitioner was entitled, during; the period of his appointment, to the same salary, as that payable to a Lecturer appointed on regular basis. No factual premises are forthcoming in the petition to warrant the acceptance of any such prayer. No occasion thus arises for holding the petitioner entitled to the same salary as that of a Lecturer appointed on regular basis.

9. This writ petition is disposed of in these terms.