
(2011) 12 AHC CK 0381

In the Allahabad High Court

Case No : Writ - A No. - 51848 of 2011 Connected with Writ No's. 30178 of 1995, 58824 of 2007 and 74767 of 2010

Bhanu Pratap Srivastava

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 01-12-2011

Acts Referred:

Citation : (2011) 12 AHC CK 0381

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Judgement

Hon'ble Arun Tandon, J.—The case was adjourned for today on the request of Sri H. N. Singh, learned counsel for the respondent No. 8. Today, when the case has been called out Standing Counsel is present, however, Sri H.N. Singh, is not present.

2. All the writ petitions are with regard to the right of the petitioner to work as office superintendent. They have been clubbed and are being decided under the common Judgment.

3. From the record, this Court finds that the petitioner was placed under suspension only because for his having not complied with the orders of the Director of Education (Higher), Allahabad dated 25.11.2010, by the District Magistrate who is the administrator of college concerned, vide order dated 22.8.2011. The Director of Education (Higher) has filed his personal affidavit before this Court categorically stating that the letter dated 25.11.2010 has not been issued by his office and the same is a forged document. In view of the aforesaid, the very basis for suspension of the petitioner becomes non est. A first information report has also been lodged in that regard.

4. Moreover, the Court has been informed that the petitioner has already attained the age of superannuation on 30.11.2011. In view of the aforesaid, the suspension of the petitioner has become meaningless.

5. The issue which now needs to be examined is as to whether the departmental proceeding against a retired employee of recognized degree college can continue even after his retirement.

6. Counsel for the respondent refers to the Division Bench Judgment of this Court in the case of Dr. R.B. Agnihotir Vs. State of U.P. and Others 2000 (2) ESC 915 as well as the Judgment in the case of Ravindra Singh Rathore Vs. District Inspector of Schools and Others, wherein it has been held that in absence of the statutory provision permitting such departmental inquiry to continue even after the employee has retired the proceeding shall stand dropped.

7. No final opinion is being expressed by this Court on the issue. The Director of Education shall himself examine as to whether after the retirement of the petitioner departmental inquiry can continue or not.

8. The writ petitions are disposed of with following directions:

(1) The Director of Education shall take a decision on the aforesaid aspect of the matter within four weeks and shall pass reasoned order after affording opportunity to the petitioner and the Committee of Management.

(2) Director shall ensure payment of subsistence allowance to the petitioner for the period he was under suspension within the same period and he shall further ensure that such bill for subsistence allowance of the petitioner is submitted and cleared within the time permitted. In case of non-compliance, the Principal of the College shall not draw his salary.

(3) If it is found that departmental inquiry cannot continue after the date of retirement of the petitioner, the Director shall also issue an order for payment of difference of salary and subsistence allowance for the period of suspension to the petitioner and shall ensure payment thereof within a further period of one month.

(4) For any other relief petitioner is permitted to move a representation before the Director, which shall be considered in accordance with law at the earliest.