
(2008) 02 AHC CK 0014
In the Allahabad High Court

Brij Kishore Tripathi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 29-02-2008

Acts Referred:

Citation : (2008) 118 FLR 919

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Tarun Agarwala, J.—The list has been revised. Learned Counsel for the respondent No. 7 is not present.

2. Heard Sri Ashok Khare, learned Counsel appearing for the petitioner, assisted by Shri Sunil Kumar Srivastava, learned Standing Counsel appearing for respondent Nos. 1, 3, 4 and 5 and Shri A.K. Yadav, learned Counsel for respondent No. 2.

3. In the institution known as Chacha Nehru Smarak Inter College, Govind Nagar, Kanpur Nagar, there are six sanctioned posts of lecturers, and admittedly, five posts have already been filled up by direct recruitment. The sixth post was obviously required to be filled up by promotion in the promotion quota, which became vacant on 30th June, 2000, but the vacancy was intimated to the Selection Board by the District Inspector of Schools on 30th December, 2005. The Selection Board pursuant to the advertisement of 2004 had directed the Committee of Management of this institution to appoint respondent No. 7 as a Lecturer in Hindi. The petitioner, being aggrieved by the aforesaid decision, filed a writ petition which was disposed of with a direction to the Joint Director of Education to decide the matter.

4. Based on the said direction, the Joint Director of Education passed the impugned order rejecting the claim of the petitioner for promotion on the post of Lecturer in Hindi and directed the Committee of Management to appoint

respondent No. 7 as a Lecturer in Hindi. The petitioner, being aggrieved, has filed the aforesaid writ petition.

5. Admittedly, the selection of respondent No. 7 was pursuant to an advertisement of 2004. The vacancy caused in the institution of respondent No. 6 was not advertised in the advertisement of 2004. Consequently, the said vacancy could not be filled up by the Selection Board. The recommendation made by the respondent No. 4 for the selection of respondent No. 7 in the institution of respondent No. 6 was ex-facie illegal and cannot be sustained. Further, this Court finds that five posts have already been filled up by direct recruitment. Consequently, the seventy post was required to be filled up by promotion.

6. In view of the aforesaid; the order of the District Inspector of Schools and the order of the Joint Director of Education cannot be sustained and are quashed. The writ petition is allowed. The matter is remitted back to the authority concerned to consider and decide the claim of the petitioner for promotion as a Lecturer in Hindi within two months from the date of the production of a certified copy of the order. In so far as the respondent No. 7 is concerned, the Selection Board is directed to adjust the said respondent in any other institution where a vacancy of 2004 is existing. That adjustment should also be made within two months.