
(2007) 05 AHC CK 0045

In the Allahabad High Court

Case No : C.M.W.P. No. 34524 and 34856 of 1998

Dilawar Singh

APPELLANT

Vs

Regional Joint Director of Education 12th Region, and Others

RESPONDENT

Date of Decision : 11-05-2007

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Regulation 20, 3
Uttar Pradesh Secondary Education Services Commission and Selection Boards Act,
1982 — Section 33D

Citation : (2008) 5 AWC 4469

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : Anil Bhushan, for the Appellant; Atul Mehra and Mahipal Singh and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Since common questions of law and facts are involved in these two cases, with the consent of counsels for the parties, they are being decided by this common judgment treating Civil Misc. Writ Petition No. 34856 of 1998 as the leading case.

2. Heard counsels for the parties and perused the record. The facts of the case are that the Petitioner was appointed as Assistant Teacher in Janta Inter College, Aaku, Bijnore (hereinafter referred to as "the College") for teaching students up to Junior High School standard. In 1985, the College was upgraded to Intermediate level. The Petitioner being seniormost Assistant Teacher, was promoted on ad hoc basis in L.T. grade. His appointment was also approved by the District Inspector of Schools vide letter dated 5.4.1988. In 1992, post of Principal fell vacant and names of the Petitioner as well as Sri Ved Prakash Sharma were forwarded by the Committee of Management to the District Inspector of Schools for interview scheduled to be held on 2.4.1992 in the institution.

3. The District Inspector of Schools vide his order dated 25.7.1996, declared Sri Yogendra Pal Singh Respondent No. 4 as senior to Petitioner and on the retirement of Sri Ved Prakash Sharma from the post of Principal, Respondent No. 4 was appointed as such vide resolution of the Committee of Management dated 11.8.1996.

4. Aggrieved, the Petitioner preferred representation before the Manager of the College on 27.3.1997 and thereafter filed appeal before the Regional Deputy Director of Education and after hearing the parties, the Regional Deputy Director of Education vide impugned order dated 28.9.1998 declared Respondent No. 4 as seniormost Assistant Teacher.

5. Aggrieved by the aforesaid order dated 28.9.1998, the Petitioner has invoked the writ jurisdiction by means of this writ petition.

6. Contention of counsel for the Petitioner is that the Joint Director of Education in his order dated 28.9.1998 has held that grant of L.T. grade to the Petitioner and Respondent Nos. 4 and 5 will be 1.7.1989, i.e., after completion of 10 years' service in C.T. grade. Date of grant of L.T. Grade to all the three teachers being same, i.e., 1.7.1989, the seniority has to be determined on the basis of date of birth in accordance with provisions of Regulation 3 of Chapter II of U. P. Intermediate Education Act, 1921 but the Joint Director of Education has committed material illegality and infirmity in declaring Respondent No. 4 as the seniormost teacher on the basis of date of continuous service. He also stated that the Respondent No. 4 was not a trained teacher and could not reckon 1.7.1989 as date of his entry in L.T. grade in view of Section 33D as inserted by U. P. Act No. 25 of 1998 in U. P. Secondary Education Service Commission and Selection Boards Act, 1982 and, therefore, could not be declared senior to the Petitioner.

7. Per contra, counsel for the Respondent No. 4 and standing counsel contended that there is not illegality or perversity in the impugned order and the writ petition is devoid of any merit as Respondent No. 4 had joined service in July 1975 whereas the Petitioners joined service in 1977. It is stated that the school was upgraded in 1985 from Junior High School to High School level and thereafter Respondent No. 4 also passed graduation and B. Ed. examinations, as such, it is wrong for the Petitioners to say that Respondent No. 4 does not possess educational qualifications for the post.

8. From perusal of record, it appears that Sri Yogendra Pal Singh, Respondent No. 4 was appointed as Assistant Teacher on 1.7.1975. At the time of his appointment, his educational qualifications were Intermediate pass and B.T.C. He did his B.A. in 1977 and B. Ed. in 1991. At that point of time, the institution, in question was Junior High School. It was upgraded to High School in 1985 and now it is upto Intermediate standard. S/Sri Dilawar Singh and S. C. Tomer, the Petitioners in these writ petitions were appointed as Assistant Teachers on 8.7.1977. Sri Dilawar Singh was M.A.B. Ed. whereas Sri Tomer was B. Sc., B. Ed.

Respondent No. 4 was given C.T. Selection Grade w.e.f. 1.1.1986 whereas the Petitioners were given C.T. Selection grade w.e.f. 8.7.1987. The Regional Joint Director of Education has recorded a clear finding of fact that all the aforesaid three persons got C.T. grade since 1.7.1979 and after completion of 10 years service on C.T. grade, they got L.T. Grade w.e.f. 1.1.1989.

9. Respondent No. 4 was B.T.C., and had acquired more than 5 years experience in C.T. grade. As a result, he is trained graduate teacher, hence the seniority has to be determined from the date of initial appointment as such, Respondent No. 4 is senior to the Petitioners. There is no illegality or infirmity in the order impugned.

10. Word "trained" has been defined in Regulation 20 of Chapter II thus:

11. Moreover, Sri Dilawar Singh appears to have been illegally promoted in L.T. Grade w.e.f. 11.8.1988 as by that time he had not completed five years continuous service in C.T. grade, as such his promotion was rejected by the Secondary Education Service Commission vide order dated 15.8.1990.

12. For all the reasons stated above, the case of Respondent No. 4 is covered by aforesaid definition and, therefore, there is no illegality or infirmity in the order impugned. Both the writ petitions accordingly fail and are dismissed. No order as to costs.