
(2009) 04 AHC CK 0326
In the Allahabad High Court

Dipak Kumar Pandey & Anr.

APPELLANT

Vs

State of U.P.& Ors.,

RESPONDENT

Date of Decision : 07-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0326

Hon'ble Judges : Dilip Gupta, J

Final Decision : Dismissed

Judgement

Dilip Gupta, J.

This petition has been filed for quashing the advertisement dated 1st November, 2005 as well as the selection of private respondent Nos. 4 and 5, Laxmi Kant and Dharmendra Kumar Mishra on the post of Peon made pursuant to the aforesaid advertisement. A further direction has also been sought for appointing the petitioners as Peons against the said advertised vacancy.

Two Class IV posts fell vacant in the Adya Sharan Singh Adarsh Inter College, Kora Jahanabad, Fatehpur (hereinafter referred to as the "College") which is an Intermediate College recognized under the provisions of the U.P. Intermediate Education Act, 1921. The Principal of the College sought permission from the District Inspector of Schools, Fatehpur for filling up the two posts by his communication dated 20th December, 2004 and the District Inspector of Schools granted permission to fill up the said posts by the letter dated 27th October, 2005. Subsequently the Principal of the College issued an advertisement for filling up the two posts. This advertisement was published in two newspapers on 1st November, 2005. The interview was held on 20th November, 2005 and the petitioners along with others appeared before the Selection Committee. The Selection Committee recommended the names of Laxmi Kant and Dharmendra Kumar Mishra who have been arrayed as respondent Nos. 4 and 5. The papers relating to the said selection were sent to the District Inspector of Schools who conveyed the approval of the Regional Committee on 6th December, 2005. Thereafter appointment orders were issued in favour of respondent Nos. 4 and 5

and they joined the College on 6th December, 2005 as Class IV employees.

Learned counsel for the petitioners submitted that only the petitioners had appeared before the Selection Committee on 1st November, 2005 and respondent Nos. 4 and 5 had not even appeared yet they have been selected and granted appointment. He further submitted that respondent Nos. 4 and 5 are relatives of the Principal of the College and, therefore, could not have been appointed.

Sri R.K. Srivastava, learned counsel appearing for the Principal of the College and Sri Neelambar Tripathi learned counsel appearing for respondent Nos. 4 and 5 have, however, submitted that twelve candidates had applied for the two Class IV posts advertised on 1st November, 2005 but only ten candidates including respondent Nos. 4 and 5 and the petitioners had appeared before the Selection Committee and on the basis of the comparative merit prepared by the Selection Committee the names of respondent Nos. 4 and 5, were recommended by the Selection Committee and the papers were sent by the Principal of the College to the District Inspector of Schools who subsequently conveyed the approval to their appointments. They also submitted that respondent Nos. 4 and 5 are not relatives of the Principal of the College and only vague averments have been made in paragraph 11 of the writ petition which have been sworn on the basis of legal advice.

Learned Standing Counsel appearing for respondent Nos. 1 and 2 has also contended that the District Inspector of Schools had forwarded the papers for grant of approval to the Joint Director of Education and approval was granted by the Regional Committee on 29th November, 2005. The Principal of the College was thereafter intimated of this fact by the letter dated 6th December, 2005 sent by the District Inspector of Schools.

The contention of the learned counsel for the petitioners that respondent Nos. 4 and 5 had not appeared before the Interview Board on 20th November, 2005 cannot be accepted. The Principal of the College has filed a detailed counter affidavit and has also annexed the attendancesheet wherein ten candidates including respondent Nos. 4 and 5 are shown to be present. Respondent Nos. 4 and 5 have also categorically stated that they had appeared before the Interview Board on 20th November, 2005. A bald assertion made by the petitioners that respondent Nos. 4 and 5 had not appeared before the Interview Board on 20th November, 2005, therefore, cannot be accepted.

The second submission of learned counsel for the petitioners that respondent Nos. 4 and 5 were relatives of the Principal of the College cannot also be accepted. The petitioners have not been able to substantiate the alleged relationship of respondent Nos. 4 and 5 with the Principal of the College. Respondent Nos. 4 and 5 as well as the Principal of the College have categorically denied any such relationship. In any case, learned counsel for the petitioners has not placed any Rule or Regulation which prohibits relatives of the Principal from

being considered for appointment. It is, therefore, not possible to hold that the appointments of respondent Nos. 4 and 5 are bad in law.

Learned counsel for the petitioners has not made any submission in regard to any infirmity in the advertisement and, therefore, this relief cannot be granted. It is surprising to note that while making a prayer for quashing the advertisement, the petitioners have also made a prayer for seeking appointment under the said advertisement itself.

There is, therefore, no merit in this petition. It is, accordingly, dismissed.