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**(1988) 11 AHC CK 0006**  
**In the Allahabad High Court**  
**Case No : Writ Petition No. 7364 of 1988**

Dr. Kaushal Kishore Verma

APPELLANT

Vs

Director, Technical Education and Another

RESPONDENT

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**Date of Decision :** 04-11-1988

**Acts Referred:**

Uttar Pradesh Pravidhik Shiksha Adhiniyam, 1962 — Section 22E(1), 23

**Citation :** (1989) 2 AWC 1279

**Hon'ble Judges :** S.C. Mathur, J;Girdhar Malviya, J

**Bench :** Division Bench

**Advocate :** A. Mannan, A.K. Chaturvedi and Sharad Kumar Srivastava, for the Appellant;

**Final Decision :** Dismissed

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## Judgement

S.C. Mathur, J.—This petition is directed against order dated 12-9-1988 Annexure-6 whereby Petitioner's temporary services from the post of lecturer in Chemistry in Hewett Polytechnic, Mahanagar, Lucknow opposite party No. 2 have been terminated. A perusal of the order shows that the services have been terminated on account of lack of approval from the Director of Technical Education.

2. Advertisement inviting applications for the post in question was issued in August 1986 a copy of which is Annexure-1. A perusal of the advertisement shows that one of the prescribed essential qualifications was 2 years minimum experience of teaching Intermediate or Diploma classes. The advertisement does not contain any provision for relaxation in this qualification. The Petitioner alongwith two other candidates was interviewed by a Selection Committee whose report is Annexure-2. The Selection Committee selected the Petitioner for the post in question and placed him at Serial No. 1. It placed Sri Vijay Anand Singh at Serial No. 2 and recommended his name to be placed in the waiting list. In its report, the Selection Committee has mentioned that none of the candidates who appeared before it possessed 2 years experience of teaching Intermediate or

Diploma classes. It, therefore, recommended that candidates be selected on the basis of educational qualification and the requirement of experience may be waived. It appears that report of the Selection Committee was sent to the Director of Technical Education for approval but before any communication was received from the Director, appointment order was issued to the Petitioner by the Management; a copy of this appointment order is Annexure-3. In this order, it was specifically provided that in case approval of the Director of Technical Education was not issued, the Petitioner's services will be terminated without any notice. In pursuance of this order, the Petitioner joined the post. The Director of Technical Education, it appears, did not agree with the recommendation of the Selection Committee for waiver of the experience qualification and, therefore, by order dated 21-4-1987 his services were directed to be terminated with effect from 30-4-1987. The Petitioner claims that against this order of termination, He preferred representation. Perhaps on the basis of this representation, the operation of the termination order dated 21-4-1987 was stayed by order dated 24-4-1987 Annexure-5. It was stated that the stay order shall remain operative till the receipt of the order of the Director of Technical Education or the State Government. Thereafter the impugned order of termination of service was passed on 12-9-1988, Annexure-6. As already indicated, in the order itself it is mentioned that the Director has not approved the appointment of the Petitioner to the post in question.

3. The first contention of the Learned Counsel for the Petitioner is that it is wrong to say that the Petitioner does not possess the prescribed qualification. It is pressed that the advertisement is not in conformity with the government order dated 22-9-1972 whereby qualifications had been prescribed for the post in question by the government. The language relating to experience in the advertisement is in these terms:

Samkaksh kachchaon me do varsh parhane ka anubhav

This clause lays down the requirement of teaching experience for 2 years. As against this, the language in the government order is as follows:

Do varsh ke Shaikshik anubhav ke sath vishai me master ki degree.

According to the Learned Counsel, the term "Shaikshik" means educational and not teaching and, therefore the qualification prescribed by the government was educational experience and not teaching experience. The term "Shaikshik" is derived from the word "Shiksha". One of the meanings of the term "teaching" given in Uttar Pradesh Prashasan Shabdkosh, 1971 is "Shiksha". "Anubhav", there is no dispute, means experience. Taken together "Shaikshik Anubhav" would mean teaching experience also. Therefore, it is not possible to accept the argument of the Learned Counsel that the term "Shaikshik Anubhav" can mean educational experience only and not teaching experience. Accordingly, we are of the opinion that there is no conflict between the government order and the advertisement.

4. Apart from the above, the argument of the Learned Counsel for the Petitioner cannot be accepted for the simple reason that it will lead to absurdity. Educational experience of two years can be acquired by studying in any class for two years, may be classes 1 and II. A person who holds Master's degree is bound to possess this experience. Apart from the experience qualification, the government order also prescribed that the candidate must possess Master's degree in the subject. If "Shaikshik Anubhav" means what is contended by the Learned Counsel, prescribing that qualification, along with the qualification of Master's degree, would be redundant. The presumption is that the Legislature does not use redundant words. This applies to its delegate, the State Government in the present case, also. For this reason also the interpretation put by the Learned Counsel cannot be accepted.

5. For the above reasons, we are of the opinion that the only meaning that can be assigned to the term "Shaikshik Anubhav" mentioned in the government order is teaching experience. The advertisement makes it explicit and leaves no room for doubt. Admittedly, the Petitioner did not possess 2 years teaching experience. Accordingly, the Petitioner was not eligible to be appointed to the post in question.

6. Appointment of teaching staff in Technical Institutions affiliated to the Uttar Pradesh Pravidhik Shiksha Parishad (Board of Technical Education, U.P.) is governed by the provisions of the Uttar Pradesh Pravidhik Shiksha Adhiniyam, 1962. Section 22-E(1) prescribes that qualifications for appointment as Principal and of teachers shall be laid down by regulations. The power to frame regulations has been conferred u/s 23 upon the Board of Technical Education. The proviso to Sub-section (I) of Section 22-E provides that the Board may, after considering the report of the Director, exempt any person from the requirement of minimum qualifications having regard to his experience, education and other attainments. Under this provision, the power to waive the prescribed qualifications vested only in the Board. It does not vest even in the Director. The Director can only make a recommendatory report. In the present case, neither there is a recommendatory report of the Director nor there is any decision of the Board waiving the experience qualification.

7. Learned Counsel for the Petitioner submits that the Petitioner's academic career has been outstanding and it was on a consideration of that outstanding record that the Selection Committee had recommended waiver of the experience qualification. The educational career of the Petitioner has been stated in paragraph 1 of the writ petition. From a perusal of this paragraph, it appears that right from High School up to M. Sc. the Petitioner secured First Division. The Petitioner has however not disclosed the academic record of the other candidates. The report of the Selection Committee also does not indicate the academic record of either the Petitioner or the other two candidates. It only mentions that the Petitioner secured the highest marks in the selection. Then it points out that none of the candidates who appeared before it possessed the

qualification of 2 years teaching experience and that the post had been lying vacant since September, 1986. From this report, it appears that the only reason for recommending waiver of the experience qualification was that no candidate with that qualification was available and the post was lying vacant since September, 1986. Accordingly, the submission of the Learned Counsel that the recommendation for waiver of experience qualification was made on the basis of the Petitioner's outstanding record cannot be accepted. It may also be pointed out that in view of the statutory provision, it is irrelevant too because the Selection Committee has not been empowered under the Act to waive the prescribed qualifications. In fact, the Selection Committee did not waive the qualification; it only made a recommendation for waiver.

8. The next submission of the Learned Counsel for the Petitioner is that a reasoned order should have been passed by the Director while refusing to waive the experience qualification. We have already pointed out hereinabove that jurisdiction to waive the qualification vested in the Board and not in the Director. Accordingly, there was no requirement for the Director to pass a reasoned order. Further, the Director was not deciding a "lis" and accordingly, he was not required to pass a reasoned order. The jurisdiction which he was exercising was administrative and not judicial or quasi-judicial.

9. It is next contended that appointment of a person who does not possess the teaching experience is not invalid; at the most it is irregular. It is submitted that an irregular appointment acquires regularity or validity on the acquisition of requisite experience by the concerned candidate. In support of the plea, the Learned Counsel has invited our attention to *Ram Sarup Vs. State of Haryana and Others*, . The Petitioner does not get any advantage by this argument because as yet the Petitioner has not completed two years of teaching experience. He was appointed to the post in question on 12-12-1986 and the period of 2 years there from will be completed only on 12-12-1988 which date has not yet arrived. Much before the arrival of this date, the Petitioner's services were terminated by order dated 12-9-1988.

10. In view of the above, the petition lacks merit and is hereby dismissed in limine.

11. Immediately after the judgment was pronounced, Learned Counsel for the Petitioner prayed for certificate of fitness for preferring appeal before their Lordships of the Supreme Court. The judgment does not raise substantial question of law of general importance which needs to be decided by their Lordships. Accordingly, the certificate prayed for is refused.