
(2010) 07 AHC CK 0102
In the Allahabad High Court

Dr. Ram Ji Lal Verma

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 07-07-2010

Acts Referred:

Uttar Pradesh Secondary Education Service Selection Board Rules, 1998 — Rule 14

Citation : (2010) 07 AHC CK 0102

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Petitioner seeks quashing of the order dated 20.04.2010. The second prayer made is that the respondent Committee of Management of the institution be directed to rearrange the seniority list and to place the petitioner at serial No. 2.

2. So far as the challenge to the order dated 31.03.2010 is concerned, this Court finds that Regional Joint Director of Education has rightly directed that the promotion may be accorded to the teacher concerned from the date three months" period expires subsequent to the recommendation of the Committee of Management. The Regional Joint Director of Education has noticed that under the U.P. Secondary Education Services Selection Board Rules, 1998 (herein after referred to as the Rules, 1998), three months" period is prescribed for consideration of the proposal of the Committee of Management qua promotion of a teacher to the next higher grade. In the facts of the present case, it has been found that the proposal remained pending before the authorities for years together and it took a judgement of this Court dated 24.10.2009 for the claim of the teacher concerned being considered.

3. The Regional Joint Director of Education has found that Santosh Kumar Dubey was legally entitled to such promotion against the vacancy which was within the 50% quota. The petitioner was neither eligible for the post nor was within the

zone of consideration for such promotion. He can, therefore, have no objection to the order of the Regional Joint Director of Education, referred to above.

4. So far as the prayer No. 2 is concerned, Counsel for the petitioner submits that lawfully the promotion shall take effect from the date it was approved. Therefore, the respondent No. 5 cannot be said to be a member of the lawful stream of teachers prior to said date and cannot be placed above the petitioner in the seniority list as has been done by the Committee of Management. For the purposes reliance has been place upon the judgement of this Court in the case of Omi Bala Nigam v. Regional Inspectress of Girls School, Jhansi Region, Jhansi reported in 1986 UPLBEC 69 wherein after noticing the provisions of Chapter III of the regulations framed under the Intermediate Education Act, the Court has proceeded to hold that the date of substantive appointment is the date of approval.

5. Having heard Counsel for the parties, I am of the considered opinion that the judgment relied upon is clearly distinguishable in the facts of the present case. If a claim of teacher for promotion under Rule 14 is permitted to be delayed by the educational authorities for no fault of the teacher concerned for years together and ultimately it is found that the teacher was to be promoted as per the resolution of the Committee of Management after satisfaction of the statutory requirements of Rule 14 of the Rules, 1998 then it is always within the competence of the education authorities to direct that such approval may relate back to the date on which the proposal was submitted or from the date the statutory period prescribed for consideration of the proposal expires as has been done in the facts of the present case. The order of the Regional Joint Director of Education has done substantial justice inasmuch as no teacher should be made to suffer because of inaction on the part of the education authorities of the State as they could not find time to consider his promotion within the statutory period prescribed.

6. Even otherwise if the petitioner has any grievance with regard to placement of the promoted teacher in the seniority list, he has two options:

a. either to represent before the Committee of Management and in case the Committee of Management has already decided the issue he has a right to file an Appeal under Rule 3(e) of Chapter III of the regulations framed under the Intermediate Education Act. The authority may decide the issue of seniority irrespective of the observations made by the Court as per law after affording opportunity of hearing to respondent No. 4.

7. Petitioner may seek his remedy accordingly.

8. Writ petition is dismissed.