

(1999) 02 AHC CK 0038
In the Allahabad High Court
Case No : C.M.W.P. No. 24295 of 1992

Dr. Ravindra Nath Pandey

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 22-02-1999

Acts Referred:

Uttar Pradesh Higher Education Service Commission (Amendment) Ordinance, 1992 — Section 31C

Uttar Pradesh Higher Education Services Commission Act, 1980 — Section 21C

Citation : (1999) 2 AWC 1171 : (1999) 2 UPLBEC 1628

Hon'ble Judges : M. Katju, J; Kamal Kishore, J

Bench : Division Bench

Advocate : Umesh Narain Sharma, for the Appellant;

Judgement

M. Katju and Kamal Kishore, JJ.—Heard Sri U. N. Sharma, learned counsel for the petitioner and learned counsel for the respondents.

2. In this case, although the petition was admitted on 9.7.1992, no counter-affidavit has been filed as yet.

3. The petitioner is challenging the impugned order dated 20.6.1992 Annexure-6 to this petition by which his prayer for regularisation as lecturer in Economics in National Degree College, Barahalganj, Gorakhpur has been rejected.

4. The post of lecturer fell vacant and, therefore, a requisition was sent to the District Inspector of Schools, Gorakhpur on 15.2.1989 Annexure-1 to this writ petition. Thereafter the Committee of Management of the Institution obtained a letter of permission for making appointment from the Regional Higher Education Officer, Gorakhpur and the same was given by letter dated 19.4.1989 Annexure-2 to this writ petition. Since the Commission failed to appoint, an advertisement was made in the daily newspaper "Dainik Jagran" on 31.3.1989, inviting applications from the eligible candidates for the appointment to the post of lecturer. The petitioner applied and an interview took place and ultimately the

petitioner was appointed by the Committee and a letter of approval was also obtained from the University. Initially the letter of appointment was from 4.12.1989 but later on this order/letter was modified to the effect that the approval is granted w.e.f. the date on which the petitioner had taken charge. The photocopy of letters dated 4.12.1989 and 16.1.1990 are Annexures-3 and 4 to this writ petition.

5. The petitioner started teaching in the institution w.e.f. 1.8.1989 in pursuance of the letter of the Committee of Management dated 30.7.1989. The true copy of the appointment letter is annexed to this writ petition as Annexure 2-A.

6. In para 6 of the petition, it has been stated that the approval from the University was given to the petitioner from time to time and ultimately, the State Government promulgated an Ordinance on 22.11.1991 known as the U. P. Higher Education Service Commission (Amendment) Ordinance which later on became an Act. This ordinance introduced Section 31C in the Act. This provision provides for regularisation.

7. By the impugned order dated 20.6.1992, the petitioner has been held ineligible as he does not possess continuous high academic record. The learned counsel for the petitioner submitted that the view of the respondent is arbitrary and he has invited our attention to Statute 11.01 of Gorakhpur University which has been quoted in para 10 to this writ petition. Sub-clause (7) (d) of the Statute states that a candidate having 50% of marks in each of the two examinations B.A. and Intermediate separately is said to have consistently good academic record. As pointed out in para 7 to this writ petition, the petitioner had obtained 52.24% marks in B.A. examination, and 57% in Intermediate. Hence in view of Statute 11.01 (7) (d), it has to be held that he had a consistently good academic record.

8. In view of the above, we hold that the order dated 20.6.1992 is arbitrary and it is hereby quashed. We direct that the service of the petitioner shall be regularised from the date of the impugned order with all benefits and all arrears to be given within three months from the date of the production of the copy of this order.

9. With the observation made above, this writ petition is allowed.