
(2000) 02 AHC CK 0149
In the Allahabad High Court
Case No : C.M.W.P. No. 6829 of 1996

Dr. R.B. Agnihotri

APPELLANT

Vs

State of Uttar Pradesh and others

RESPONDENT

Date of Decision : 22-02-2000

Acts Referred:

Citation : (2000) 2 AWC 1242 : (2000) 2 UPLBEC 1099

Hon'ble Judges : Lakshmi Bihari, J; Binod Kumar Roy, J

Bench : Division Bench

Advocate : Ashok Khare and N.N. Srivastava, for the Appellant; R.G. Padia and S.C., for the Respondent

Final Decision : Allowed

Judgement

Binod Kumar Roy and Lakshmi Bihari, JJ.—The petitioner, who at the relevant time was Reader in the Department of Hindi in Kalpi College. Kalpi, has come up with following prayers :

1. "a writ, order or direction of suitable nature quashing the disciplinary proceedings against the petitioner or declaring the same to be Ineffective and of no consequence."
2. "a writ, order or direction of suitable nature commanding the respondents to fix the pensionary benefit of the petitioner and to disburse the same regularly every month and also to disburse the entire arrears of his pensionary benefits from 1.7.1998 till date within a period to be specified by this Hon"ble Court."
3. "a writ, order or direction in the nature of certiorari quashing the order dated 20.11.1995 issued by the Manager, Kalpi College, Kalpi, district Jalaun (Annexure-13 to the writ petition) and to declare the same as having become Inoperative and no legal consequence."
- 4 "a writ, order or direction of suitable nature commanding the respondents not to interfere in the functioning of the petitioner as Reader and Head of the

Department of Hindi in Kalpi College, district Jalaun and to pay the petitioner his regular monthly salary on the said post regularly every month."

5. "a writ, order or direction of suitable nature commanding the respondents to disburse the arrears of salary to the petitioner from December, 1994, till date within a period to be specified by this Hon"ble Court."

2. Sri Khare, learned counsel for the petitioner at the outset stated that the relief for commanding the respondents to allow the petitioner to continue as Reader due to his superannuation has become redundant and thereby is not pressed.

3. Having regard to the submissions made at the Bar by Sri Ashok Khare, the learned counsel for the petitioner, the moot question which arises for our consideration is as to whether any disciplinary departmental proceeding in the absence of any statutory provision could have continued after his superannuation on 30th June. 1998?

4. Sri Khare placed strong reliance on a two Judges Division Bench judgment of the Supreme Court in Bhagirathi Jena Vs. Board of Directors, O.S.F.C. and Others, , wherein the following ratio was laid down by the Supreme Court :

"There is also no provision for conducting a disciplinary enquiry after retirement of the appellant and nor any provision stating that in case misconduct is established, a deduction could be made from retiral benefits. Once the appellant had retired from service on 30.6.1995. there was no authority vested in the Corporation for continuing the departmental enquiry even for the purpose of imposing any reduction In the retiral benefits payable to the appellant. In the absence of such authority. It must be held that the enquiry had lapsed and the appellant was entitled to full retiral benefits on retirement."

5. Sri Srivastava, learned counsel for respondent Nos. 7 and 8 while opposing the prayers made in this writ petition and the submissions made by Sri Khare made many fold submissions on facts but could not rebut the legal position explained by the Supreme Court referred to as above.

6. On the materials on the record, this much is crystal clear that the Vice-chancellor had passed his order according approval to the resolution terminating the services of the petitioner on 27th August, 1999, that is to say much after the statutory superannuation of the petitioner. The ratio laid down by the Supreme Court is binding on us.

7. Accordingly, we hold that in the absence of any express provision, the departmental inquiry could not have continued after the superannuation of the petitioner on 30th June. 1998 and thus it lapsed.

8. The Impugned orders/ resolution passed by different authorities as contained In various Annexures all are quashed with this clarification that in view of the fact that this writ petition has to be allowed on a technical point and thus it will not mean our adjudication in regard to the allegations which have been made

against the petitioner and in relation to which some matters/cases which are claimed to be are pending and that it will be open for the authorities to take such steps against the petitioner which It may consider expedient and appropriate provided warranted by law and it will be open for the petitioner to take such defences which he may consider valid. The writ petition is thus allowed to the extent indicated but having regard to the peculiar facts and circumstances, we make no order as to costs.

9. The office is directed to return back the documents produced by Sri Srivastava.

10. The office is further directed to hand-over a copy of this order to Sri H. R. Mishra, learned standing counsel for its follow up action by the authority concerned.