
(2010) 02 AHC CK 0069
In the Allahabad High Court

Dr. Shakeel Ahmad

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 01-02-2010

Acts Referred:

Uttar Pradesh State Universities Act, 1973 — Section 31(4)(c)

Citation : (2010) 2 AWC 1936

Hon'ble Judges : S.P. Mehrotra, J;K.N. Pandey, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.P. Mehrotra and K.N. Pandey, JJ.—We have heard Shri P.S. Baghel, learned senior counsel assisted by Shri Gautam Baghel, learned Counsel for the petitioner and Shri Pankaj Saxena, learned standing counsel appearing for the respondent Nos. 1, 2 and 3.

2. As per the averments made in the writ petition, the petitioner was selected for appointment on the post of Principal in the institution in question, namely, Halim Muslim Post Graduate College at Kanpur, which is stated to be a minority institution. The said institution is affiliated with Chhatrapati Sahu Ji Maharaj University, Kanpur. The selection of the petitioner was made by a Selection Committee, constituted as per the provisions of Section 31(4)(c) of the U.P. State Universities Act, 1973. The Committee of Management of the said institution considered the recommendation of the Selection Committee in its meeting dated 13.2.2009, and it resolved to accept the recommendation of the Selection Committee in respect of the appointment of the petitioner.

3. The Committee of Management sent relevant papers with regard to the said selection to the Vice-Chancellor of the Chhatrapati Sahu Ji Maharaj University. The Vice-Chancellor by the communication dated 4.9.2009 (Annexure-9 to the writ petition) granted his approval for the appointment of the petitioner, as per the provisions of Section 31(11)(a) of the U.P. State Universities Act, 1973. The

Committee of Management issued appointment letter dated 5.9.2009 (Annexure-10 to the writ petition), and the petitioner joined the said institution on 14.9.2009 in pursuance of the said approval of the Vice-Chancellor dated 4.9.2009 and the appointment letter dated 5.9.2009.

4. The grievance of the petitioner is that even though he has been performing his duties as Principal since 14.9.2009, but his salary has not been paid by the respondent Nos. 2 and 3, who are responsible for the payment of salary to the petitioner.

5. Shri P.S. Baghel, learned senior counsel appearing for the petitioner has referred to a communication dated 5.12.2009 (Annexure-14 to the writ petition) sent by the Regional Higher Education Officer, Kanpur Region, Kanpur (respondent No. 3) to the Director, Higher Education, U.P., Allahabad (respondent No. 2) seeking appropriate orders of the Director in the matter of payment of salary to the petitioner. It is submitted by Shri Baghel that the respondent No. 2 has not as yet taken any decision in the matter.

6. Having regard to the facts and circumstances of the case and having considered the submissions made by Shri P.S. Baghel, learned senior counsel appearing for the petitioner and the learned standing counsel appearing for the respondent Nos. 1, 2 and 3, we are of the opinion that the interest of justice would be subserved by disposing of the writ petition permitting the petitioner to make an application before the Director, Higher Education, U.P., Allahabad (respondent No. 2) alongwith a certified copy of this order, and directing the respondent No. 2 to take appropriate decision in the matter of payment of salary to the petitioners within a specified period.

7. We accordingly dispose of the writ petition with the following directions:

1. Within four weeks from today, the petitioner will submit an application alongwith a certified copy of this order before the Director, Higher Education, U.P., Lucknow (respondent No. 2).

2. On receipt of such application, the Director, Higher Education, U.P., Lucknow (respondent No. 2) will take appropriate decision in the matter of payment of salary to the petitioner in accordance with law by passing a speaking order expeditiously, preferably within a period of six weeks from the date of receipt of the said application.

It is made clear that this Court has not adjudicated the claim of the petitioner on merits.