

(2005) 12 AHC CK 0016

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 74061 of 2005

Dr. Virendra Kumar Singh

APPELLANT

Vs

Vice Chancellor, Mahatma Jyotiba Phule, Rohilkhand
University, Principal of Upadhi Degree College, District
Magistrate, Controller of Upadhi Degree College and Kumari
Ruchi Chandra

RESPONDENT

Date of Decision : 16-12-2005

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2006) 5 AWC 4890

Hon'ble Judges : V.M. Sahai, J; Barkat Ali Zaidi, J

Bench : Division Bench

Advocate : I.M. Tripathi, for the Appellant; Govind Saran and C.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Barkat Ali Zaidi, J.—The petitioner, who is a lecturer in Botany in degree college at Pilibhit, of which the respondent No. 2 happens to be the Principal and the respondent No. 3 District Magistrate the Controller, was hired on contract basis for 3 years vide advertisement dated 3.6.2001 (Annexure - 1 to the writ petition) who joined on 6.8.2001 vide appointment letter dated 6.8.2001 (Annexure - 2 to the writ petition). After expiry of 3 years, he some-how continues in his job for a year more and continues to receive his salary.

2. Subsequently, after advertisement dated 21.6.2005 (Annexure - 5 to the writ petition) another candidate, a lady Km. Ruchi Chandra, respondent No. 4 was selected for Lecturer in Botany (on same post) for a 3 years term and has been given appointment on 15.10.2005 (Annexure - 10 to the writ petition).

3. The petitioner says that he is entitled to work as a Lecturer and receive his salary. His services cannot come to an end. The appointment of respondent No. 4 is illegal and she cannot be permitted to work on the post of Lecturer in Botany

and with these prayers, he has come up before us by filing this writ petition.

4. We have heard Sri Indra Mani Tripathi, learned counsel for the petitioner, Sri Govind Saran learned counsel for the respondent No. 1.

5. The contention of the learned counsel for the petitioner is that the respondent No. 4 has not been selected as a regular Lecturer and she has been selected for a 3 years term, which is illegal and since the petitioner continues to work for another year subsequent to expiry of his 3 years term, he is entitled to continue in service. The argument is based on some unusual logic because the appointment of the petitioner was on contract basis for 3 years, and came, to an automatic termination after the lapse of the stipulated period. The mere fact that he has worked for one more year or so thereafter and has received his salary, does not give him a lien on the post, and does not entitle him to continue in service or to be regularised thereafter. The counsel for the petitioner has relied on Hon. Supreme Court's pronouncement in case of Rattan Lal and Others Vs. State of Haryana and Others, and has specifically referred to following observations :-

These adhoc teachers are unnecessarily subjected to an arbitrary " hiring and firing" policy. These teachers who constitute the bulk of the educated unemployed are compelled to accept these jobs on an adhoc basis with miserable conditions of service. The Government appears to be exploiting this situation. This is not a sound personnel policy. It is bound to have serious repercussions the educational institutions and the children studying there. The policy of" adhocism" followed by the State Government for a long period has led to the breach of Article 14 and Article 16 of the Constitution. Such a situation can not be permitted to last any longer

What has been observed by the Hon"ble Supreme Court in connection with adhoc teachers has no application in respect of appointments made on contractual basis.

6. When an appointment is made for a fixed term on the basis of contract between Teacher and Management , the term of the teacher comes to an automatic termination after expiry of contract period, because the parties are bound by the contract and they should be made to abide by the terms of the contract. The petitioner will not, therefore, acquire any rights to continue in service till a regularly selected candidates steps in.

7. The counsel for the petitioner repeatedly emphasized and stated that the petitioner continues to serve as a Lecturer in Botany even now after expiry of 3 years period and his services have not been terminated and that he was given extension of one year. There is no order of one year extension on the record, as argued by the counsel for the petitioner, and if the petitioner continues to serve after the expiry of his contractual period, he does not acquire any right to continue as a lecturer. The simple fact is that his appointment was for a fixed term which has expired.

8. The counsel for the petitioner has also referred to various pronouncements as referred to in case of Chandra Bhan v. Basic Shiksha Adhikari, Gorakhpur and Ors., where it was observed that, " it is well settled in law that an adhoc appointee cannot be substituted by another adhoc appointee."

9. The counsel for the petitioner has stated that in this case, another person respondent No. 4 has been appointed for 3 years term, who is not a regularly selected candidate and, it is not, therefore, valid. This principle of law will not be applicable to the present case, because the appointment of the petitioner as well as that of respondent No. 4, are for a fixed term and are not adhoc appointments.

10. Since the contractual term of the petitioner has expired, his services ,therefore, come to an end. The petitioner is, therefore, not entitled to any relief.

11. Petition dismissed.