
(1996) 09 AHC CK 0044

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 31168 of 1996

Dular Singh Rathore

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision : 25-09-1996

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Secondary Education Services Commission and Selection Boards Act,
1982 — Section 33B(a)(i), 33B(ii)

Citation : (1996) 09 AHC CK 0044

Hon'ble Judges : M.Katju, J

Final Decision : Dismissed

Judgement

M. Katju, J.—The petitioner claims to have been appointed on ad hoc basis vide appointment letter dated 16111992, Annexure1 to the writ petition. This order itself States that this appointment is to last until the regular selection by the U.P. Secondary Education service Commission. In pursuance of this appointment letter, the petitioner claims that he has been working since 1811993. Subsequently it appears that regular selections have been made by the U.P. Secondary Education Service Commission and hence the petitioner's appointment automatically came to an end.

2. Learned Counsel for the petitioner has claimed the benefit of Section 33B of the Act. Section 33B states as follows:

"33B. Regularisation of certain other appointments(1) Any teacher, other than the Principal or Headmaster, who

(a)(i) was appointed by promotion or by direct recruitment in the lecturer grade or Trained Graduate grade on or before May 14, 1991 or in the certificate of Teaching grade on or before May 13, 1989 against a short term vacancy in accordance with paragraph 2 of the Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties (Second) Order, 1981 and such vacancy was subsequently converted into a substantive vacancy, or

(ii) was appointed by direct recruitment on or after July 14, 1981 but not later than June 12, 1985 on ad hoc basis against a substantive vacancy in the Certificate of Teaching grade through advertisement and such appointment was approved by the Inspector, or

(iii) was appointed by promotion or by direct recruitment on or after July 31, 1988 but not later than May 14, 1991 on ad hoc basis against a substantive vacancy in accordance with Section 18, as it stood before its omission by the Uttar Pradesh Secondary Education Services Commission and Selection Boards (Amendment) Act, 1922."

In my opinion the petitioner cannot get the benefit of Section 33B (a) (i) of the Act because he was appointed after 1451991. Sub clauses (ii) and (iii) of the above Section also do not apply to the petitioner as his appointment is not covered by those subclauses.

3. Learned Counsel for the petitioner urged that the cut off date 1411991 is arbitrary. I am not in agreement with this submission. It is for the Legislature to fix the cut off date and it is not for this Court to decide about the cut off dates unless there is something grossly arbitrary. The Supreme Court in the case of State of Bihar and Others v. Ramjee Prasad and Others, (1990) 3 Supreme Court Cases 368 held that cut off date cannot be treated as arbitrary even if no reason for the same has been given by the respondent. The recent trend of Supreme Court decisions is to uphold the cut off dates vide Smt. Meera Srivastava and Another v. State of U. P. and Others, (1989) 1 U.P.L.B.E.C. 767, Union of India and Others v. M. Bhaskar and others (1996) 4 SCC 416: 1996(2) LBESR 720(SC) etc.

4. Thus I do not find the cut off date in Section 33B to be arbitrary. The petition is dismissed.