
(2010) 06 AHC CK 0007
In the Allahabad High Court
Case No : C.M.W.P. No. 37389 of 2010

Gauri Shankar Shukla and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 30-06-2010

Acts Referred:

Citation : (2011) 4 AWC 3434

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : Khalil Ahmad Ansari, for the Appellant;

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Petitioners before this Court filed a writ petition earlier being Civil Misc. Writ Petition No. 14635 of 2010 alleging therein that they were working in a Government Inter College and, therefore, their age of retirement should be fixed at par with the teachers working in recognized and aided Intermediate Colleges whose service conditions are regulated in accordance with the provisions of the Regulations framed under the Intermediate Education Act wherein age of retirement has been fixed as 62 years. It was stated that Petitioners are being paid same salary as is being paid to teachers working in aided and recognized Intermediate Colleges and are discharging same duties and responsibilities.

2. According to the Petitioners, teachers working in Government Intermediate Colleges are being retired at the age of 60 years which was arbitrary and discriminatory as the two categories of teachers imparting education at the same level have to be treated at par.

3. The writ court vide order dated 22.3.2010, without entering into the merits of the contention raised, permitted the Petitioners to file a representation ventilating their grievances before the State Government and the State Government in turn was required to take a decision in accordance with law within

the time specified.

4. The representation so made by the Petitioner has been rejected by the Principal Secretary, Education Department vide order dated 15.6.2010. Under the order, it has been noticed that the Government teachers with reference to their method of recruitment, service conditions including promotion etc. form a different class altogether, they are Government servant to whom Fundamental Rules are applicable. Under Fundamental Rule 56A, the age of retirement of Government servant has been prescribed as 60 years, except in cases where extension of service is granted by the State Government. Since there is no amendment in the Fundamental Rule 56A, the Petitioners who are teachers in Government institutions have to retire at the age of 60 years. The State Government has clarified that the teachers working in Government Intermediate Colleges were Government servant and cannot be treated to form one common class with the teachers working in private recognized Intermediate Colleges whose service conditions are regulated under the Regulations framed under the Intermediate Education Act, their method of recruitment, service conditions including promotion etc. are different. It is against this order that the present writ petition has been filed.

5. Having heard Learned Counsel for the parties and having examined the records of the present writ petition, I am of the considered opinion that merely because the Petitioners who are teachers in Government Intermediate Colleges and the teachers working in aided and recognized Intermediate Colleges impart education to the students at the same level and are getting same salary, it will not mean that they are at par for all practical purposes or they together form one common class of employees.

6. It is an undisputed fact that regular appointment on the post of teachers in Government Intermediate Colleges is made on the recommendation of the U.P. Public Service Commission, while that of teachers in Intermediate Colleges is made through U.P. Secondary Education Services Selection Board. The teachers working in recognised Intermediate Colleges are employees of the private managements while those working in the Government Colleges are Government employees. The channel of promotion for the two categories is also different. The two category of teachers cannot be equated with each other. It is for the Government to determine the age of retirement of its employees. It is not in dispute that the Fundamental Rules are applicable to the Government teachers and their age of retirement is similar to that applicable to other Government servants, i.e., 60 years. This Court finds no reasonable ground to interfere with the order of the State Government dated 15.6.2010.

7. The present writ petition is dismissed.