

(2005) 08 AHC CK 0184

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 24108 of 2001

Hamiduddin

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 22-08-2005

Acts Referred:

Citation : (2005) 6 AWC 6187

Hon'ble Judges : Sunil Ambwani, J

Bench : Single Bench

Advocate : S.D. Kautilya, for the Appellant; S.C., S.S. Sharma and Sandeep Mukherjee, for the Respondent

Final Decision : Dismissed

Judgement

Sunil Ambwani, J.—Heard Sri S.D. Kautilya learned counsel for the petitioner and learned Standing Counsel.

2. By this writ petition the petitioner has prayed for a direction to the respondents to grant two years extension in service beyond the age of superannuation, as he is a recipient of state award recognising his services as a best teacher.

3. Brief facts giving rise to this petition are, that the petitioner was appointed as a L.T. Grade teacher in a Government College on 24.2.1966. He retired as the Principal of Basic Teachers Training College Varanasi on 31.3.2000. He was recommended for state teacher's award of the year 1999. By the Government Order dated 18.9.2000, the State Government conferred the award on the petitioner.

4. The Government Order dated 6.5.1982, provides that all those teachers who have been conferred the state award for best teaching, and are physically and mentally fit, shall be given two years extension of service. On 21.10.2000, the Principal of the Basic Teachers Training College, made recommendations to give two years extension of service to the petitioner. Since nothing was done, the

petitioner filed this writ petition.

5. It is alleged that similarly situate persons namely Sri Sabharaj Pandey and Bhagwati Prasad, who had retired on 30.6.1998, and were awarded the best teachers award after their retirement on 17.7.1998, were given two years extension vide orders dated 5.5.1999, almost one year after their retirement. Some other teachers have also received similar benefits. One Sri Ram Avtar Agarwal, District Inspector of Schools was not given extension, on which he filed a writ petition which was allowed by this Court and the SLP against the judgement was dismissed.

6. In the counter affidavit of Sri Faizur Rahman, Deputy Director of Education (S-I) Directorate of Education, U.P. Allahabad it is stated that the petitioner attained the age of superannuation (58 years) on 31.3.2000. The state award was declared on 18.9.2000, after which the petitioner made a representation for extension of his services. The same was referred by the Directorate to the State Government vide the letter dated 20.12.2000. The State Government considered the representation and rejected the same on 21.6.2001 on the ground that the petitioner had attained the age of superannuation and was retired after giving" sessions benefit on 30.6.2000, and since thereafter he is not serving. He received the state teachers award of the year 1999 on 18.9.2000, and as such the State Government decided not to give the benefit of extension of service to the petitioner.

7. There is no pleading or material on record to show that the acceptance of the recommeodation and the declaration of the state teachers award was delayed only to deny the benefit of extension of service to the petitioner or any other recipient of the award. The Government Order dated 6.5.1982 provides for extension of service for two years beyond the age of superannuation. This extension, however, is conditional upon the physical and mental health of the person and the orders to be passed by the State government in this behalf. This benefit is both by way of reward of teachers as also as utilize their recognised and appreciated teaching service to the students.

8. The word "extension" means enlarge; expand; lengthen; prolong; to carry out further than its original limit. The word extension ordinarily implies the continuity in existence of some thing to be extended. In Provash Chandra Dalui and Another Vs. Biswanath Banerjee and Another, , the Supreme Court considered the expression, "extension" and "renewal", and held that where the period of lease had expired, the question of extension after the period does not arise, as new lease will be required, inviting the consideration of the purpose for which it may be renewed.

9. The petitioner had retired before the award was declared. His application for extension in service was recommended and forwarded almost nine months after his superannuation. The petitioner"s services as such could not be extended as he was not in service when he received the Award. The State Government as

such did not commit any illegality in turning down his representation.

10. The fact that some of the teachers were given the benefit of extension in service after they attained the age of superannuation, can not be a ground to grant the same benefit to the petitioner. The plea of parity should not be readily accepted and applied. A person who comes to the Court must establish his rights. In *C.S.I.R. and Others Vs. Dr. Ajay Kumar Jain, ; and Narpat Singh etc.etc. Vs. Jaipur Development Authority and Another, ,* it was held that the illegal and unwarranted actions must be corrected, rather than made the process to repeat the illegality. Where a plea of parity will be prejudicial to the interest of law and may cause mischief to the public interest, the Court cannot take into account the plea to give similar benefit to the petitioner. The Supreme Court held that it is not appropriate to examine another persons case in his absence. It is rather better to examine the case of the petitioner who is present before the Court seeking relief. Each case must be decided on its own merits, both factually and legally. The plea of miscarriage of justice, and inequality should not be readily accepted by the Court.

11. The object of the extension of service is not only to reward the teacher, but also to utilise their services for providing quality education to the students. When a person has superannuated almost nine months ago and is not serving in the institution the benefit may not serve the purpose. Such extension will amounts to reinstatement in service, and is also likely to disturb the rights of other persons serving in the institution. No other point was pressed. The costs are made easy.

12. For the aforesaid reasons, the writ petition is dismissed.