
(1993) 05 AHC CK 0091

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 13143 of 1986

Ishwar Singh Tome

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 14-05-1993

Acts Referred:

Uttar Pradesh Intermediate Education (Amendment) Regulations, 1976 — Regulation 3(1)
Uttar Pradesh Intermediate Education Act, 1921 — Section 14, 16E, 16E(1), 16E(2), 16E(3)
Uttar Pradesh Intermediate Education Regulations, 1921 — Regulation 2, 3, 4

Citation : (1993) 3 AWC 1752

Hon'ble Judges : A.P. Singh, J

Bench : Single Bench

Advocate : Ambrish Kumar Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

A.P. Singh, J.—Petitioner. Ishwar Singh Tomar, lecturer of K. H. R. Inter College, Khampur, Lohari, District Meerut (hereafter called the "College") has filed the present writ petition for challenging the order dated 7-6-86 (annexure 28 to the writ petition) passed by the "District Inspector of Schools, Meerut (hereafter called as the "Inspector") he has also prayed for issue of an order for treating him as senior to Respondents 2 and 3.

2. The question involved in the writ petition is that the seniority. According to the Petitioner, he is senior to Respondents 2 and 3, namely, Mahavir Singh and Jai Bhagwan Sharma respectively. On that basis, the petitioner claims that he is entitled to be appointed as officiating Principal of the College whereas the Inspector by the impugned order has held that between petitioner and Respondents 2 and 3, Respondent No. 3 Jai Bhagwan Sharma was the senior most lecturer while Respondent No. 2 was the next senior and the petitioner was the third and last senior most lecturer of the College amongst the three persons.

3. The brief facts, which are involved in the present case, are that on 4-7-70 a Selection Committee met and it selected the petitioner for appointment as lecturer of Chemistry on the basis whereof petitioner was appointed and he, ultimately, joined as lecturer on 8-7-70. This fact has, however, been disputed by Respondent No. 2. Respondent No. 3 has not contested the writ petition. Thereafter, on 11-8-70, the Selection Committee met and it Selected Respondents 2 and 3 as lecturers of Hindi and Maths respectively. With effect from that date Respondents 2 and 3 were appointed in the College on their respective posts. On 20-1-71 the petitioner resigned from his post as Chemistry lecturer and sought employment in a Degree College where he had worked between 21st January, 1971 and 30th April, 1971. Petitioner is said to have been confirmed on the post of lecturer by the resolution of the Committee of Management passed on 8-7-71. The Inspector by order dated 3rd November, 1970 (annexure 5 to the writ petition) accorded approval for appointment of the petitioner and Respondents 2 and 3, The name of the petitioner occurs at serial No. 2 whereas the name of Respondent No. 2 occurs at serial No. 1 and that of Respondent No. 3 occurs at serial No. 16 in the order of approval of the Inspector. In the said order the Inspector directed the management to issue appointment letters and send a copy thereof to the Inspector. It was further directed by the Inspector that in case any appointment order had earlier been issued, the same may be cancelled and fresh appointment orders may be issued. The date of birth of the petitioner is 25-7-1949, of Respondent No. 2 it is 15-1-1943 and that of Respondent No. 3 is 10-1-1942.

4. The College is a recognized College and is governed by the U.P. Intermediate Education Act (hereafter referred to as the "Act"). Appointment in the College is governed by the provisions of the Act. Section 16-E and 16-F of the Act are relevant and the same provide for the procedure of appointment. Sub-section (1) of Section 16-E provides as under:

16-E. Procedure for selection of teachers and head of institutions,-

(1) Subject to the provisions of this Act, the Head of Institution and teachers of an institution shall be appointed by the Committee of Management in the manner hereinafter provided,

Section 16-F (1) prior to its amendment by Section 14 of U.P. Act No. 26 of 1975 read as under:

16-F (1)...no person shall be appointed as Principal, Headmaster or teacher of any recognized institution unless he:

(a) possesses the prescribed qualifications or has been exempted under Sub-section (1) of Section 16-E;

(b) has been recommended by selection, committee constituted under Sub-section (2) or (3), as the case may be, of the said section and approved, in the case of Principal or Headmaster by the Regional Deputy Director, Education, and

in the case of a teacher by the Inspector....

5. A reading of Section 16-F (1) will show that appointment on the post of a teacher could not at all be made by the Managing Committee except after prior approval of the Inspector. In the present case, the Inspector had accorded his approval for appointment of the petitioner as well as for the appointment of Respondents 2 and 3 on 3-11-70. The question thus which falls for consideration in the present case is as to whether the length of service rendered by the petitioner prior to the date of approval dated 3-11-70 should or should not be counted for the purpose of determining his seniority. If the period between 8-7-70 and 2-11-70 is: counted towards the service rendered by the petitioner in the seniority of the petitioner, will automatically become senior to Respondents 2 and 3 and the order of the Inspector under challenge, will have to be set aside. If, however, the said period of service of the petitioner between 8-7-70 and 2-11-70 is not counted for determining his seniority, then for that the" petitioner will have to be treated as junior to Respondents 2 and 3 and the writ petition will have to be dismissed and the Order of the Inspector will have to be upheld.

6. Learned Counsel for the petitioner urged that although the Inspector gave the approval on 3rd November, 1970 but the period of service of the petitioner prior to that cannot totally be ignored as the same should and must be counted as a period of continuous officiation by the petitioner on the post of Chemistry lecturer. According to him, prior to 3rd November, 1970, the petitioner had actually worked as Chemistry lecturer by virtue of his appointment made by the Committee of Management by order dated 4-7-70 consequent to his selection by the. Selection Committee on the same date. He was, therefore, entitled to get the benefit of his continuous officiation on the post of Chemistry lecturer even for the purpose of determining his seniority. For this, learned Counsel has placed reliance on various judgments including the judgment of the Supreme Court in "he case of The Direct Recruit Class-II Engineering Officers" Association and others Vs. State of Maharashtra and others, as well as Chandrika Prasad v. U.P. Public Service Tribunal III, Lucknow 1993 (1) UP LB EC 752

7. On the other hand, learned Counsel for Respondent No. 2, has contended that the appointment of the petitioner prior to 3rd November, 1970 not being an appointment in the eye of law was to be totally ignored and could not at all be counted for the purpose of determining seniority amongst the lecturers of the College. It was also argued that in view of specific direction of the Inspector in the approval order dated 3-11-70, appointment orders should be issued on a date subsequent to the date of approval and if any appointment order was issued earlier, the same should be cancelled, should be given due meaning and in no case the appointment of the petitioner prior to 3-11-70 should at all be given any consideration for the purpose of considering the length of service of the petitioner. Learned Counsel for Respondent No. 2 has cited a judgment of this Court in the case of Arya Kanya Pathshala v. Smt. Manorama Devi Agnihotri 1971 ALJ 983, as well as the two judgments Prabhu Narain Singh v. Deputy Director of

Education, Varanasi 1977 AWC 358 and Lalit Mohan Misra v. District Inspector of Schools 1979 ALJ 1025. It was also argued by the learned Counsel for Respondent No. 2 that the petitioner having resigned from service of the College and having taken employment in another college between 8-7-70 and 30-4-71, a break occurred in his service and for that reason also the petitioner must be treated to be junior to Respondents 2 and 3. On the other-hand, the petitioner learned Counsel contended that in view of the order passed by the Regional Deputy Director of Education which is annexure 6 to the writ petition, as 24-3-76 for granting continuity to the service of the petitioner and ignoring the break in his service it was not open to the Respondents to plead that there was break in the service of the petitioner on account of resignation and employment in another College. Counsel for Respondent No. 2, on the other hand, refuted this argument by alleging that since the order dated 24-3-76 was passed by the Deputy Director of Education without affording opportunity to Respondents 2 and 3, as such, the said order cannot affect their right and for the purpose of determining the seniority the period between 8-7-70 and 30-4-71 when the petitioner was not serving in the College and "was appointed elsewhere should be treated as a break in service, of the petitioner and petitioner's seniority shall have to be counted only from 1st May, 1971.

8. It is not necessary to notice the provisions relating to the determination of the seniority. According to the learned Counsel for the petitioner, seniority amongst the petitioner and Respondents 2 and 3 can be determined on the basis of the rules of seniority applicable at the time of appointment and subsequent Rules which were framed for the purpose of determining seniority after the appointment of the petitioner and Respondents 2 and 3 will have no application whereas learned Counsel for the Respondents argued that the rule of seniority framed even after the appointment of the petitioner will be -relevant for determining the seniority whenever the question of seniority arises. It is, therefore, necessary to notice the provisions relating to determination of seniority Which were framed at the time the appointment of the Petitioner and Respondents 2 and 3 were made and the provisions which were in force subsequently.

9. There is no provision for determining seniority in the Act. The Regulations, however, provide for determination of seniority. In the year 1970 when the petitioner and Respondents 2 and 3 were appointed Regulations as they stood before the amendment in 1975 did not provide for any precise Rule for determination of seniority. In Chapter I of the Regulations which deals with framing of the Scheme of Administration, Regulations 1 to 8 "provide for appointment of Ex-officio members of the Committee of Management. Regulations 1 to 6 which are relevant for this case are being reproduced below:

1. Ex-officio members of the Committee of Management -The Committee of Management of an institution shall include the following ex-officio members:

(i) Headmaster or Principal, as the case may be.

(ii) Two teachers for a term of one year each by rotation according to seniority selected in the manner-prescribed below:

(2) For the purpose of selection, by rotation in order of seniority, a common seniority list of all the teachers in substantive service of an institution shall be maintained by the Management in accordance with the rules.

3. The two seniormost teachers shall be selected from this list as ex-officio members in the Committee of Management in the first instance. Their terms shall begin from the date on which the Committee of Management is constituted after the approval of the Scheme of Administration by the Director. On the expiry of their terms or in the event of a vacancy or vacancies occurring earlier by one or both the teachers resigning his/their membership of the Committee or ceasing to be in the service of the institution, the teacher/teachers next in the seniority list shall be selected in his/their place/places for a full term. The ex officio membership of a teacher shall not lapse on his being promoted or demoted from one grade or category to another during the currency of his term.

4. The Manager shall prepare and maintain the seniority list showing therein the date from which a teacher is entitled to count his seniority. Before finalising the list he shall supply a copy thereof to every teacher in the institution and any objection filed by any teacher within a month of the receipt of the copy by him shall be decided by the Committee of Management.

5. Any teacher aggrieved by the decision of the Committee may within fifteen days of its communication to him file an appeal to the Inspector or Regional Inspectress, as the case may be, whose decision thereon shall be final.

6. A copy of the list after it has been finalised shall be supplied to each teacher, the head of the institution and the Inspector of Regional Inspectress for reference and record. Any change in the strength or grades of teachers comprising a category shall be duly noted in the list and all concerned promptly intimated of it. Any teacher who feels aggrieved by the change may file objection before the Managing Committee within a month of the intimation and that objection shall be dealt with as if it were an objection under regulation 4.

10. There was no provision regarding determination of seniority in Chapter II; The Regulations were changed in the year 1976 by Gazette dated 7th July, 1976. Regulation 3 in Chapter II, which was inserted by notification dated 7th July, 1976, was framed for the purpose of determining seniority. It reads as under:

3 (1) The Committee of Management of every institution shall cause a seniority list of teachers to be prepared in accordance with the following provisions:

(a) The seniority list shall be prepared separately for each grade of teachers whether permanent or temporary, on any substantive post;

(b) Seniority of teachers in a grade shall be determined on the basis of their substantive appointment in that grade. If two or more teachers were so

appointed on the same date, seniority shall be determined on the basis of age;

(bb) Where two or more teachers working in a grade are promoted to the next higher grade on the same date, their seniority inter se shall be determined on the basis of the length of their service to be reckoned from the date of their substantive appointment in the grade from which they are promoted:

Provided that if such length of service is equal, seniority shall be determined on the basis of age,

(c) A teacher in a higher grade shall be deemed to be senior to a teacher in the lower grade irrespective of the length of service;

(d) If a teacher who is placed under suspension is reinstated on his original post, his original seniority in the grade shall not be affected;

(e) Every dispute about the seniority of the teacher shall be referred to the Committee of Management which shall decide the same giving reasons for the decision;

(f) Any teacher aggrieved from the decision of the Committee of Management under Sub-clause (e) may prefer an appeal to the Inspector within fifteen days from the date of communication of such decision to such teacher and the decision of the Inspector in appeal shall be final and shall be given effect to by the Committee of Management.

(g) यदि, एक grade mein karyarat do ya adhik Adhyapak kisi ek he tithi per padonnaty kiya jayen to unki jeshthata ka aadhar us grade ka sewakaal hoga jisme we karyarat the parantu yadi Sewakaal barabar hai to padonnati ki dasa mein aayu ke aadhar per jeshthata nirdharit ki jayegi.

(2) The seniority list shall be revised every year and the provisions of Clause (1) shall mutatis mutandis apply to such revision.

11. A perusal of the Regulations, as they stood in the year 1970, would show that as per Regulation 2 of Chapter I, seniority list was to be prepared in respect of all teachers in substantive service of an institution and under Regulation 4 the Manager of the institution was under the duty to maintain proper seniority list showing the date from which a teacher was entitled to count his seniority. There was, however, no provision in the Regulations for the determination of seniority in case the substantive appointment to two teachers in one grade was made on the same date. The position was, however, specifically dealt with by Regulation 3 of Chapter II which was made operative with effect from 7th July, 1976. Clause (1) (a) of Regulation 3 required preparation of separate seniority list for each grade of teachers irrespective of "the nature of appointment on any substantive post. Clause (b) provided that seniority of a teacher in the grade was to be determined on the basis of his substantive appointment in that grade and if two or more teachers were appointed on the same date, their seniority was to be determined on the basis of age. It is on the basis of Clause (b) of Sub-rule (I) of

Regulation 3 that the Inspector held the petitioner junior to Respondents 2 and 3 and the counsel for the petitioner has attacked the said finding on the ground that Regulation 3 of Chapter II, which came in force on 7th July, 1976, has no application to the petitioner's case. According to him, since the petitioner and Respondents 2 and 3 were appointed in the year 1970, rule for determination of seniority under the provisions of the Regulations as it stood prior to 1976 were to be applied and since there was no provision for considering the date as a factor for determination of seniority in respect of teachers whose appointment in one grade in substantive service was made on the same day. The seniority, according to the petitioner, in such a situation was to be counted on the principle of continuous officiation on the post prior to the substantive appointment of the incumbent on the post. It was further argued that since the petitioner had worked on the post of lecturer between 8-7-70 and 2-11-70 prior to the grant of approval for his appointment by the Inspector, that period of work by the petitioner on the post should be treated as period of continuous officiation and he should be given the benefit of the said period for determination of his seniority on the strength of the view taken by the Supreme Court in the case of *Direct Recruits Class II Engineering Officers' Association v. State of Maharashtra* (supra) and also in the case of *Chandrika Prasad v. U.P. Public Service Tribunal III, Lucknow* (supra). The learned Counsel also contended that the Inspector was absolutely wrong in applying Rule 3 (1) (b) of Chapter II in petitioner's case as this rule was brought into force on 7th July, 1976 as the said rule was not retrospective in operation and, therefore, could not apply to a case of appointment made in 1970.

12. Taking first the contention of the learned Counsel for the petitioner to the effect that petitioner is entitled for the benefit of continuous officiation on the post of lecturer between 8-7-70 to 2-11-70, in this connection it is to be seen that the appointment of the petitioner was made on 8-7-1970 without the approval of the Inspector which, therefore, was no appointment under the provisions of Section 16-F (1) of the Act. The management of the College had no power to appoint the petitioner as lecturer except on prior approval of the Inspector. Admittedly, no approval was given by the Inspector for appointment of the petitioner prior to 3rd November, 1970. Therefore, petitioner's continuance on the post of lecturer prior to 3rd November, 1970 will be of no meaning for the purpose of determination of inter se seniority amongst lecturers of the College. Admittedly, seniority prior to 1976 was also to be determined only in respect of teachers in substantive service of the institution. In absence of approval of the Inspector required by Section 16-F (1) of the Act, petitioner's appointment prior to 3rd November, 1970 was not an appointment in the eye of law. In the circumstances, petitioner cannot be said to have been appointed in a substantive service as lecturer of the College before 3-11-1970. Appointment of a teacher without prior approval of the Inspector is no appointment in the eye of law, is fully borne out by the consistent view expressed by this Court in *Arya Kanya Pathashala and Ors. v. Smt. Manorama Devi Agnihotri and Ors.* (supra), *Prabhu*

Narain Singh v. Deputy Director of Education (supra) and Lalit Mohan Misra v. District Inspector of Schools and Ors. (supra). In my opinion, petitioner, therefore, cannot be given the benefit of the service, if any, rendered by him prior to 3rd November, 1970 for the purpose of determining his seniority on the post of lecturer which under the Rule is required to be a substantive service.

13. Petitioner's contention that he is entitled for the benefit of service rendered by him prior to 3rd November, 1970 on the Principle of continuous officiation as per the decision of the Supreme Court in the case of Direct Recruits Class II Engineering Officers' Association (supra) also deserves to be turned down. The Supreme Court in the above case was concerned with the question as to whether the seniority is to be counted from the date of confirmation or from the date of appointment. It held in para 44 (A) that once an incumbent is appointed to a post, according to Rules his seniority has to be counted from the date of his appointment and not from the date of his confirmation at the same time it also; held that the corollary of the above rule is that where the initial appointment is an ad hoc appointment and is not made according to rules by way of stop gap arrangement the officiation in such post cannot be counted for considering the seniority. It, however, also held in para 44 (B) that if the initial appointment is not made by following the procedure laid down by the rules but the appointee continues in the post uninterruptedly till the regularisation of his service in accordance with the rules, the period of officiating service will be counted for the purposes of seniority. It is on the basis of the latter part of the observations made by the Supreme Court in Clause (B) of para 44 that the petitioner's counsel has placed reliance. In my opinion the learned Counsel is not correct in taking help from the above observation of the Supreme Court. In the present case, the appointment of the petitioner was not an appointment in the eye of law as the Managing Committee of the College had no power to make appointment without the, prior approval of the Inspector and appointment made prior to the grant of Inspector's approval is void. On the other hand in the present case the Inspector in his order dated 3rd November, 1970 while giving approval for the appointment of the petitioner and Respondents 2 and 3 specifically "directed" for cancelling the orders of appointment if given earlier in respect of the appointment of petitioner and Respondents 2 and 3 and he further directed for issuing fresh appointment orders to them. This order of the Inspector was not challenged by the petitioner. In view of the above direction of the Inspector, it has to be accepted that the petitioner's appointment was made after 3rd November, 1970. In the circumstances, there is no scope for the contention of petitioner's counsel that petitioner had been appointed earlier to 3rd November, 1970.

14. In the back ground of this fact whether the petitioner can be said to have continued on the post before 3rd November, 1970 only because the management had illegally appointed him and allowed him to work as lecturer. For substantiating this contention, petitioner's counsel cannot take any aid of Clause (8) of para 44 of the judgment of the Supreme Court as present is not a case of

regularisation. Had it been that petitioner's appointment made prior to 3-11-70 was, regularised by the order of the Inspector on 3-11-70 then there was scope for making such an argument and para 44 (B) could be helpful to the petitioner. This, however, is not so here as petitioner's appointment was made for the first time after 3rd November, 1970, which is apparent from the order of the Inspector. In this factual back ground, it is not possible to accept the contention of the petitioner that for the purposes of fixing his seniority he is entitled for taking into account the period of his continuous officiation on the post of lecturer prior to 3rd November, 1970. The contention of the petitioner has no force and is, accordingly, rejected.

15. Now coming to the case of Chandrika Prasad v. U.P. Public Service Tribunal III, Lucknow 1993 (1) UP LB EC 752, it is to be seen that a learned Single Judge of this Court applied the judgment of the Supreme Court in Direct Recruits Class II Engineering Officers' Association ma held that the date of confirmation on the post is not relevant for determining seniority and a person who has earlier been appointed without following the "procedure prescribed by Rule is entitled to be given the benefit of his service during that period if he is subsequently confirmed on that post. Nothing new has been said in the above judgment The learned Single Judge has reiterated the view taken by the Supreme Court in the case of Direct Recruits Class II Engineering Officer's Association (supra).

16. What then should be the basis of determining seniority when the petitioner and Respondents 2 and 3 are appointed in substantive service as lecturer of the College on the same date. Admittedly, after the order of approval was passed by the Inspector on 3rd November, 1970, no appointment order was issued for appointing the petitioner. Therefore, it has to be treated that the petitioner and Respondents 2 and .3 were appointed after 3rd November, 1970 on the same date. In the Regulations, as they stood prior to 1976, there was no guideline for determining seniority in case where appointment of more than one teacher on substantive basis is made on the same dale. In the circumstances, resort will have to be taken to the general principles which should normally apply for determining seniority in such cases. First Principle is that the seniority may be-determined on the basis of the order in which the names of the petitioner and Respondents 2 and 3 appear in the order of the Inspector granting approval for their appointment. In the order dated 3rd November, 1970, petitioner's name appears at serial No. 2 whereas the name of Respondent No. 2 appears at serial No. 1. On this basis also, petitioner will be junior to Respondent No. 2 but shall be senior to Respondent No. 3 whose name appears in the order at serial No. 16, The other alternative is to take guidance from Regulation 3 (1) (b) of Chapter II which has been inserted in the year 1976. The amendments made in 1976 tray or may not apply to this case but the same can certainly be treated by way of explanation to the Rules of seniority which were in existence prior to the enforcement of Rule 3 (1) (b) of Chapter II. On that basis too, the petitioner, being youngest in age to both Respondent Nos. 2 and 3 is certainly junior to them. Even in the absence of Rule 3 (1) (b) of Chapter II of the Regulations the

accepted practice in service jurisprudence is that when two or more persons are appointed on the same date oldest amongst them is treated senior most and youngest is treated as juniormost.

17. Now coming to the petitioner's contention that Rule 3 (1) (b) of Chapter II has no retrospective operation and, therefore, no recourse to the said rule could be taken for the purpose of determining seniority amongst the petitioner and Respondents 2 and 3. It is no doubt true that the Rules normally have prospective operation except when it has been given retrospective operation by express words. But the question of retrospective operation of Rule 3 (1) (b) of Chapter II will arise only when the petitioner can be held senior to Respondents 2 and 3 under the rules of seniority, as they existed prior to 7th July, 1976. As seen above, even under Rule 2 of Chapter I of the Regulations, as they stood prior to 7th July 1976, petitioner could not be held senior to Respondents 2 and 3. Therefore, the question as to whether the Rule 3(1)(b) introduced on 7th July, 1976 in Chapter II of the Regulations has retrospective operation or not does not at all arise and, therefore, is not required to be decided in the present case.

18. It is, therefore, futile for the petitioner to argue that Rule 3 (1) (b) of Chapter II introduced on 7th July, 1976 in the Regulations cannot be applied for determining seniority of the petitioner and Respondents 2 and 3. Even without taking the aid of Rule 3 (1) (b), Respondent No. 2 is to be treated senior to the petitioner for the reason-firstly that his name occurs in the order of the Inspector dated 3-11-70 prior to the name of the petitioner and secondly that Respondent No. 2 is senior in age to the petitioner. It is wrong to say that the age factor became relevant for determining seniority for the first time with the introduction of Rule 3 (1) (b) of Chapter II in the Regulations. Age has always been considered as relevant fact for determining seniority when every other things, namely, the date of appointment, date of joining were the same.

19. It does not at all stand to reason to accept that a teacher appointed in the same grade on the same date should be treated junior to the other person who is junior to him in age specially when the appointment is made on difference posts and there is no common merit list between them. In the present case petitioner and Respondents 2 and 3 were appointed in lecturer's grade; while . petitioner was appointed as Chemistry lecturer, Respondents No. 2 was appointed as Hindi lecturer and Respondent No. 3 was appointed as Maths lecturer. Thus there was no common merit list amongst the petitioner and Respondents 2 and 3 as they are appointed on different posts of lecturer of Chemistry, Hindi and Maths respectively. Since the petitioner's contention regarding his seniority over Respondents 2 and 3 on the basis of continuous officiation prior to 3rd November, 1970 has already been rejected, it is not possible under the facts and circumstances of the case to hold that the petitioner is senior to Respondents 2 and 3. In my opinion, the Inspector has rightly held Respondents Nos. 2 and 3 as senior to the. petitioner.

20. Learned Counsel for the petitioner has raised the contention that the

impugned order passed by the Inspector is without jurisdiction. It is stated that the" Inspector has power to entertain appeal but he cannot directly decide the question of seniority amongst the teachers of the College. In this respect, ray attention has been drawn by the learned Counsel for the petitioner to the provisions of Chapter H. It has been contended that whenever a teacher is aggrieved by his placement in the seniority list he has to first make objection before the Committee of Management and if he is dissatisfied with the decision given in that respect, by the Managing Committee, he could file appeal to the Inspector whose order is made final. Since Respondents 2 and 3 did not file any objection before the Committee of Management regarding fixation of their seniority, the objection taken by them directly before the Inspector through the representation filed by them was not maintainable and the Inspector too had no authority or jurisdiction to entertain and pass orders on the said representation. It is further argued that the question of seniority amongst the petitioner and Respondents 2 and 3 had been determined long back and the petitioner had always been treated senior to Respondents 2 and 3 and Respondents 2 and 3 had never taken any exception against petitioner being treated as senior to them. In the circumstances the learned Counsel argued, it was not at all justified nor open for the Inspector to have disturbed the seniority, which was a long standing, on the application filed by Respondents 2 and 3 before him.

21. This contention of the learned Counsel for the petitioner too is not acceptable. Under the Regulation, seniority has to be determined every year. There is nothing on the record to show that the seniority list had earlier been prepared finally by the Managing Committee and the said seniority list was circulated amongst the lecturers and Respondents 2 and 3 had been served with the list of seniority and on that list petitioner had been shown senior to them. In the present case, the question of seniority had arisen in the context of the need of appointing officiating Principal of the College. This situation had not arisen earlier. The petitioner as well as Respondents 2 and 3 staked their claim for appointment as officiating Principal on the basis of seniority. Petitioner claims that he was senior to Respondents 2 and 3 whereas the Respondent No. 2 claimed that he was senior to the petitioner and such was the claim of Respondent No. 3 who too claimed seniority over petitioner and Respondent No. 2. It was in this context that the dispute reached the Inspector who in the circumstances was called upon to decide as to who amongst the petitioner and Respondent Nos. 2 and 3 was entitled for appointment as officiating Principal on the basis of seniority. The Inspector, in my opinion, therefore, cannot be said to have illegally grabbed the jurisdiction which was not conferred on him by law. The inspector under the Act and the Regulations is entrusted with the job of ensuring that appointments are made strictly in accordance with law and if the question was brought to him by .way of representation to the effect as to who amongst the petitioner and Respondents 2 and 3 was eligible for appointment as officiating Principal, the Inspector had the requisite power to decide the said question. In my opinion, the Inspector, did not exceed his jurisdiction and was

within his power to pass the impugned order.

22. There is another reason for which petitioner's objection regarding want of jurisdiction should be rejected. Admittedly, the petitioner was heard by the Inspector before the Inspector decided the question of seniority of Respondents 2 and 3 and the petitioner. Petitioner did not raise any such objection before the Inspector. The petitioner did not file the earlier final seniority list in which he may have been shown senior to Respondents 2 and 3, He also did not take exception to the jurisdiction of the Inspector to entertain the representation of Respondents 2 and 3. In this view of the matter, contention of the petitioner's counsel in this respect is liable to be rejected and is, accordingly, rejected.

23. No other point has been pressed.

24. All the contentions raised by the petitioner in support of the writ petition having been rejected, the writ petition is liable to be dismissed and is accordingly, dismissed with costs.