
(2010) 12 AHC CK 0043
In the Allahabad High Court
Case No : Service Single No. 8759 of 2010

Janardan Prasad Shukla

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 22-12-2010

Acts Referred:

Uttar Pradesh Secondary Education Services Commission and Selection Boards Act,
1982 — Section 18(2)

Citation : (2010) 12 AHC CK 0043

Hon'ble Judges : Devendra Kumar Arora, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Devendra Kumar Arora, J.—Heard learned Counsel for the parties. The submission of learned Counsel for the Petitioner is that the post of Principal fell vacant in Dr. G.K. Jetaly Inter College, Akbarpur, Ambedkar Nagar. The Petitioner being senior most Lecturer of the college, was given charge of the post of Principal with effect from 01.07.2006 in pursuance to the provisions of Section 18 of the U.P. Secondary Education Services Selection Board Act, 1982.

2. The further submission of learned Counsel for the Petitioner is that as per Section 18 (2) of the Act, 1982 the Petitioner is entitled to get salary for the post of Principal from the date he has joined on the said post. The learned Counsel for the Petitioner also placed reliance on the judgment of this Court reported in 2009 (1) UPLBEC 426, Zafar Ali Khan Hatmi (Dr.) v. State of U.P. and Ors 2009 (1) UPLBEC 426 , in which the Division Bench of this Court while relying upon the judgment of Apex Court in Selvaraj Vs. Lt. Governor of Island, Port Blair and Others, held that if an employee has worked on a higher post either on temporary or on officiating capacity he is entitled to the salary attached to the higher post. Learned Standing Counsel did not dispute the provisions of Section 18 (2) of the Act, 1982.

3. I have considered the arguments of learned Counsel for the parties and gone

through the record.

4. It is admitted position that the Petitioner was appointed as officiating Principal of Dr. G. K. Jetyal Inter College, Akbarpur, Ambedkar Nagar on 01.07.2006. Thereafter, he was placed under suspension on 23.07.2007 and subsequently he was reinstated and resumed his duties as officiating Principal on 27.05.2010. The grievance of the Petitioner is that though he is functioning as officiating Principal of the Institution, but he is not being paid salary of the said post in pursuance of the provisions of Section 18 (2) of the U.P. Secondary Education Services Selection Board Act, 1982. It is settled law that if an employee is permitted to work on the higher post either on temporary or on officiating, he is entitled to be paid salary of the higher post.

5. The Petitioner has already approached by means of representation dated 01.09.2010, contained in Annexure-9 to the writ petition, to the District Inspector of Schools, Ambedkar Nagar, but no order has been passed on the representation of the Petitioner.

6. Considering the aforesaid facts and circumstances, the District Inspector of Schools, Ambedkar Nagar is hereby directed to consider and decide the representation of the Petitioner dated 01.09.2010, contained in Annexure-9 to the writ petition, taking into consideration Section 18 (2) of U.P. Secondary Education Services Selection Board Act, 1982 as well as the judgment of this Court reported in 2009 (1) UPLBEC 426, Zafar Ali Khan Hatmi (Dr.) v. State of U.P. and others, by means of a speaking and reasoned order, within a period of four weeks from the date of receipt of a certified copy of this order and the order so passed will be communicated to the Petitioner. The Petitioner is also given liberty to make fresh representation alongwith certified copy of this order, annexing the judgment of Zafar Ali Khan Hatmi (Dr.) (supra). With the aforesaid observations and directions, the writ petition is disposed of finally.