

(2008) 01 AHC CK 0056
In the Allahabad High Court

Jitendra Singh

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 25-01-2008

Acts Referred:

Citation : (2008) 2 AWC 2067 : (2009) 5 RCR(Civil) 256 : (2008) 3 UPLBEC 2360

Hon'ble Judges : Sunil Ambwani, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sunil Ambwani, J.—Heard learned Counsel for the petitioner and learned standing counsel.

2. The petitioner claims to be validly appointed on the post of Lecturer (Economics) in Inter College, Tarighat, Distt. Ghazipur vide order dated 27.12.1992 and joined the institution on 1.1.1993. He alleges that he is continuously working but has not been paid salary. He filed a Suit No. 188 of 1997 in the Court of Civil Judge (S.D.) in which a mandatory injunction was issued passed on 22.8.1998 directing that the salary be paid to the petitioner. A similarly situate person namely Ram Narain Tiwari appointed in the same institution also filed a suit and in which same orders were passed. Whereas Shri Ram Narain Tiwari has been paid salary, nothing was paid to the petitioner.

3. The petitioner approached the District Inspector of Schools, Ghazipur/ Information Officer under the Right to Information Act, 2005 demanding reply to the questions with regard to (1) progress report on his application; (2) action taken against the officers for failing to decide the petitioner's representation; (3) the reason for which Dr. Ram Narain Tiwari (Lecturer, Sanskrit) was paid salary by order of the State Government dated 3.6.2005 ; (4) whether the similar order is to be given for the petitioner ; and (5) the period within which the orders of the Court shall be complied.

4. By a communication dated 13.12.2006 the District Information Officer provided the requisite information to the petitioner. After giving relevant information with regard to questions Nos. 1, 2, 3 and 4, it was stated in reply to question No. 5 that as soon as the orders are received from the State Government, further action will be taken in the matter.

5. Aggrieved by the alleged act of withholding information the petitioner filed an appeal before the State Information Commissioner. The State Government in its reply dated 27.2.2007 stated that the petitioner was appointed as Lecturer (Economics) on the temporary vacancy on ad hoc promotion of the Lecturer (Economics) as the Principal of the college. The appointment was made against the departmental rules and thus the payment of salary was not approved. The department had filed a Misc. Appeal No. 31 of 1998 against the order of the Civil Judge dated 22.8.1998 in which the order was stayed. No orders were issued for payment of his salary. In Writ Petition No. 22574 of 1999, Shri Shiv Sewak Singh v. Civil Judge (S.D.), Ghazipur, the department could not get any relief against the order of the Civil Judge and that the order of Civil Judge, Ghazipur is still valid. The State Information Commissioner has stated in his order dated 31.7.2007 that the petitioner has been provided with all requisite informations. The appeal filed by the department is still pending in the District Court and that if he is aggrieved, he may seek relief from the competent court.

6. It is contended by the petitioner that the Misc. Appeal No. 31 of 1998 was dismissed by the Special Judge (E.C. Act), Ghazipur on 1.8.2005 and this information is available with the State Government. The department, however, is not paying his salary and has furnished a wrong information to the petitioner. The State Information Commissioner should have insisted upon the department to grant relief to the petitioner in same terms as in the case of Shri Ram Narain Tiwari.

7. The Right to Information Act was enacted to maintain transparency and accountability in the function of the public authorities. The Act does not provide for any adjudication or to give reasons as to why a particular person, is being discriminated in payment of his salary. On an application the District Information Officer was required to furnish the information, as it was available in his office. He is not supposed to give reasons for any action or inaction of the department in a matter in which the persons may be aggrieved. If the office of the District Inspector of Schools was not aware of the dismissal of the miscellaneous appeal filed by the State Government, it was not required to give justification for the same. The information as it is available in the office has to be furnished to the petitioner. There was no material to establish that the District Inspector of Schools was communicated with the dismissal of misc. appeal filed by the State Government against the order of Civil Judge. The manner in which the applicant uses the information is not the concern of the authorities nominated under the Right to Information Act. The writ petition is dismissed.