
(2008) 07 AHC CK 0154

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition Nos. 26071, 26075 and 26079 of 2008

Kabindra Nath Rai

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 03-07-2008

Acts Referred:

Citation : (2008) 07 AHC CK 0154

Hon'ble Judges : B.S.Chauhan, J and Sunil Ambwani, J

Final Decision : Dismissed

Judgement

1. Heard Shri Ravi Prakash Srivastava for the petitioners. Shri Pankaj Naqvi appears for the Banaras Hindu University and Shri Chandra Prakash Gupta appears for Union of India.

2. In Writ Petition No. 26071 of 2008 the petitioner was appointed as Basket Ball Coach in the scale of Lecturer in Banaras Hindu University, Varanasi. The pay was revised on 8.9.1984. After completing eight years he was promoted to senior scale on 18.7.1989. The petitioner was awarded Ph.D. In. Physical Education on 5.8.2003. All the Physical Instructors were given designation of Asstt. Director, Physical Education on 29.8.2003. The petitioner retired on 31.8.2003 serving as Asstt. Director, Physical Education.

3. In Writ Petition No. 26075 of 2008, the petitioner was appointed as Swimming Coach on 14.8.1975 and was regularised on 10.3.1977. After completing 3 eight years he was given senior scale on 27.8.1992. The pay was revised in the pay scale of Rs. 10,00015,200 on 1.1.1996. All the Physical Instructors were given designation of Asstt. Director, Physical Education on 29.8.2003. The petitioner opted for voluntary retirement on 20.4.2003, serving as Asstt. Director, Physical Education.

4. In Writ Petition No. 26079 of 2008 the petitioner was appointed as Yoga/ Kabaddi/Khokho Coach in Banaras Hindu University, Varanasi on 1.4.1971. He was given the scale of Lecturer on 1.4.1980. The senior scale was revised at Rs.

10,00015,200 on 1.4.1988. All the Physical Instructors were given designation of Asstt. Director, Physical Education on 29.8.2003. The petitioner retired on 31st July, 2004 serving as Asstt. Director, Physical Education.

5. At the time of their retirement all the petitioners were serving as Lecturer in senior scale. It appears that some of the lecturers still serving as Lecturer in senior scale (redesignated as Asstt. Director in Physical Education) were given higher pay scale, which compelled the petitioners to make representation to the Vice-Chancellor and Chairman of the Executive Council for implementation of GOF No. 19/99U.II for giving promotion in the selection grade of Rs. 12,00018,300 w.e.f. 27.7.1998. These representations were rejected by the University by the communication given by Asstt. Registrar (Admn) dated October 6th, 2007 on the ground that they cannot be placed in the grade of Rs. 12,00018,300/w.e.f. 27.7.1998 provided for Asstt. Director (Selection Grade) on the ground that they have retired from the University service and have not faced interviews for placement as Asstt. Director (Selection Grade) while they were in service. Aggrieved the petitioners have filed these writ petitions.

6. Shri Ravi Prakash Srivastava Submits that the higher pay scale was given by way of career advancement. On being asked whether career advancement scheme can be given to a person, who has retired, Shri Srivastava very fairly admitted that the petitioners are not claiming the benefit of career advancement scheme provided by University Grants Commission by its letter dated October 19th, 2006 to the Registrar of the University and are in fact claiming the benefits under the UGC Notification on Revision of Pay Scales, Minimum Qualifications" for Appointment of Teachers in Universities and Colleges and other Measures for the Maintenance of Standards, 1998, which was accepted and was implemented by the University w.e.f. 27.7.1998 and that since the pay scales of Asstt. DPEs (Selection Grade). The notification provides for eligibility of five years" service, two refresher course, production of good teams/athletes, passing of physical fitness test and consistently good appraisal reports of Asstt. DPE for placement in the selection grade of Rs. 12,00018,000 w.e.f. 27.7.1998.

7. Shri Pankaj Naqvi appearing for the University submits that the UGC Notification of 1998 laid down minimum qualification of various posts of Physical Education department including the post of Asstt. DPE (Selection Grade). The eligibility was laid down for appointment/promotions to these posts and not by way of providing the selection grade of those, who were in service or those, who had retired. For appointment/promotion to the post of Asstt. DPEs/College DPEs (Selection Grade) the eligibility required selections for which the suitability was to be assessed by a selection committee by carrying out interviews. The petitioners have retired and thus there was no question of grant of selection grade to them.

8. The submissions that similarly placed persons were given selection grade without any selections is not substantiated on record. The petitioners as retired employees were not entitled to the higher pay scale w.e.f. 27.7.1998.

9. We do not find any error in the orders of deciding petitioners' representation. The petitioners did not face interviews for placement as Asstt. Director (Selection Grade).

10. Shri Ravi Prakash Srivastava submits that interviews were fixed sometimes after their retirement and that if the interviews were held in time, the petitioner could be made entitled for the selection grade. This ground also is not available to the petitioner as the petitioners did not make any representation or approached the appropriate forums for holding interviews of their placement in the selection grade while they were serving. The petitioners have also not challenged the orders dated 5.9.2007 and 06.10.2007, by which the university has rejected their representations.

11. All the writ petitions are dismissed.