
(1996) 07 AHC CK 0119

In the Allahabad High Court

Case No : C.M.W.P. No. 20658 of 1994 and 3 other writ petitions

Kumari Nirmala Gupta

APPELLANT

Vs

Smt. Vidyottama Gupta and Others

RESPONDENT

Date of Decision : 08-07-1996

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 9 Rule 13

Uttar Pradesh High School and Intermediate Colleges (Payment of Salary to Teachers and Other Staff) Act, 1971 — Section 16A, 3(1), 5(3), 6(3)

Uttar Pradesh Intermediate Education Regulations, 1921 — Regulation 1, 2, 3, 4, 5

Citation : (1996) 07 AHC CK 0119

Hon'ble Judges : R.R.K. Trivedi, J

Bench : Single Bench

Advocate : Rakesh Bahadur, for the Appellant;

Final Decision : Dismissed

Judgement

R.R.K. Trivedi, J.—From the narration of the facts given below, it is clear that the controversy in all the aforesaid writ petitions centres round the question of seniority between Km. Nirmala Gupta and Smt. Vidyottama Gupta. There is also controversy about payment of selection grade and promotional grade to Km. Nirmala Gupta. All the writ petitions thus can be conveniently decided by a common judgment. The Writ Petition No. 20658 of 1994 shall be the leading case.

2. The facts giving rise to the aforesaid writ petition are that Arya Kanya Pathshala Inter College, Kalpi (hereinafter referred to as "College") was upgraded from High School to Intermediate in the year 1969. The selection committee on 3rd August, 1969 selected Petitioner Km. Nirmala Gupta and Smt. Vidyottama Gupta as Lecturers. In pursuance of the selection, letters of appointment were issued to both of them. However, Petitioner joined on 4th August, 1969 whereas Respondent No. 1 Smt. Vidyottama Gupta joined on 5th August, 1969 (which is disputed). Both these appointments were approved by Regional Inspectress of Girls Schools (in short "R.I.G.S.") by order dated 26th

March, 1970. The approval was granted to appointment of Respondent No. 2 and one Km. Sudha Pathak, who is not party in controversy here. Petitioner Km. Nirmala Gupta on 15th April, 1976 moved an application before the committee of management of the College, for determining her seniority correctly. The committee of management by resolution No. 2 on 14th June, 1976 accepted her as seniormost lecturer whereas Respondent No. 2 Smt. Shashi Prabha Shukla was mentioned at Sl. No. 2 and Smt. Vidyottama Gupta was shown at Sl. No. 3. This resolution was communicated to Petitioner vide letter dated 15th June, 1976 which is Annexure 8 to the writ petition. Against this determination of the seniority by the committee of management, Respondent No. 1 Smt. Vidyottama Gupta filed appeal before R.I.G.S. on 23rd January, 1979. R.I.G.S. by her order dated 16th March, 1979 agreed with the view taken by the committee of management and found that Petitioner Km. Nirmala Gupta has rightly been determined as senior. It is relevant to mention here that the order of R.I.G.S. dated 16th March, 1979 was not challenged before this Court or before any other authority. Petitioner Km. Nirmala Gupta in the meantime officiated as Principal for about 8 years from 23rd June, 1977 to 21st April, 1985 as the regular Principal was under suspension, during pendency of the disciplinary proceedings against her. Petitioner filed Writ Petition No. 8128 of 1983 for payment of the salary for the post of Principal. The Division Bench on 1st December, 1983 gave a direction to Respondents to pay her salary of the post of Principal. Respondent No. 1 during this period did not make any serious efforts to challenge the order of the committee of management dated 14th June, 1976 and the order of R.I.G.S. dated 16th March, 1979, though it appears that she made certain representation before the R.I.G.S. on 9th April, 1979. Then she filed an appeal on 23rd May, 1980 in which the reply was submitted by the committee of management, which is Annexure 15 to the counter-affidavit. However, no orders were passed on this appeal and the matter remained as such. The appeal was opposed by the committee of management on the ground that it is not maintainable in view of the earlier order passed on 16th March, 1979.

3. The controversy, however, was again raised in 1994 after about 18 years, when Smt. Sanno Arya retired from the post of Principal on 30th June, 1994. She handed over the charge to Respondent No. 1 declaring her to be the senior-most teacher and she also directed all the teachers and employees of the college to obey orders of Respondent No. 1 as Principal. It is relevant to mention here that on 23rd June, 1994 District Inspector of Schools had already given a direction to the outgoing Principal to handover charge to Petitioner as she was seniormost lecturer in college in view of the order passed by the R.I.G.S. on 16th March, 1979. However, this order was not given any attention by the out-going Principal while handing over charge to the Respondent No. 1. Aggrieved by the aforesaid action of the out-going Principal, Petitioner filed Writ Petition No. 20658 of 1994 for quashing order dated 30th June, 1994, Annexure 18 to the writ petition and also for restraining Respondent No. 1 from functioning as officiating Principal of the College. This writ petition was disposed of finally with observations on 6th

July, 1994. The order was, however, challenged in Special Appeal No. 520 of 1994 which was allowed by the Division Bench on 19th July, 1994 and the matter has been sent back to this Court for deciding afresh after hearing parties. Counter and rejoinder affidavits have been exchanged in this writ petition.

4. It appears that during this period, the relationship of Petitioner with the management were not very smooth, the management stopped payment of selection grade and promotional grade to her. The District Inspector of Schools passed an order on 9th October, 1995 requiring management to pay selection grade and promotional grade to Km. Nirmala Gupta within the time specified therein. It was further stated that if the amount is not paid, action will be taken u/s 5(3) of the Payment of Salaries Act and single hand operation of the salary account shall be imposed. This order of 9th October, 1995 has been challenged in Writ Petition No. 29467 of 1995. The contention of the committee of management is that as Km. Nirmala Gupta was functioning as Principal for about eight years, she has not completed 16 years as lecturer and thus she was not entitled for the selection grade and promotional grade. This Court on 18th October, 1995 passed interim order directing the District Inspector of Schools not to place account of the college under single hand operation. In this writ petition, counter-affidavit with stay vacation application has been filed on behalf of Km. Nirmala Gupta. No counter-affidavit has, however, been filed by the learned standing counsel in spite of the time granted. Time for rejoinder affidavit was granted to Petitioner. However, no rejoinder affidavit has been filed, on 13th December, 1995, assurance was given to the Court that Km. Nirmala Gupta (Respondent No. 4 therein) shall be paid the Lecturer's grade whenever it falls due.

5. It may be mentioned that Km. Nirmala Gupta claimed selection grade on basis of the Government Notification dated 29th December, 1987 which provided that the Lecturers who completed 16 years continuous service shall be entitled for selection grade. She claimed this grade w.e.f. 1st November, 1985 on basis of her appointment on 4th August, 1969. The claim was resisted on the ground that she has not completed 16 years continuous service as for about eight years she was officiating as Principal. The R.I.G.S. vide order dated 27th February, 1987 rejected the objection of the committee of management and found Km. Nirmala Gupta entitled for the payment of selection grade.

6. The Government Order dated 24th July, 1988 made provisions for payment of promotional grade which was claimed by Km. Nirmala Gupta on 5th February, 1994. The District Inspector of Schools by order dated 25th February, 1994 found her entitled for the promotional grade. The committee of management, however, again resisted the payment of promotional grade on basis of the fact that she officiated as Principal for about eight years. However, this objection was not accepted and the District Inspector of Schools on 29th September, 1995 directed the committee of management to fix salary of Km. Nirmala Gupta for promotional grade which was not complied with. It was in the aforesaid context

that the impugned order dated 9th October, 1995 was passed.

7. As the order of the District Inspector of Schools for payment of the selection grade and promotional grade were not complied with, the Deputy Director of Education by order dated 29th February, 1996 passed u/s 6 (3) of the Payment of Salaries Act, superseding the management and appointed Principal of the Government Intermediate College as Authorised Controller for a period of six months. Aggrieved by the aforesaid order, Writ Petition No. 9056 of 1996 has been filed by the committee of management of the college for quashing of the order and for a further direction not to interfere with the functioning of the committee of management. In this writ petition, no counter-affidavit has been filed by any party. By order dated 14th March, 1996, this writ petition was directed to be put up before the appropriate bench alongwith Writ Petition No. 29467 of 1995. In this order dated 29th February, 1996, which has been impugned in this writ petition, Deputy Director of Education has mentioned grounds which are being given in seriatim; Justifying the supersession of the committee of management.

8. The first ground is that in spite of the order dated 16th March, 1995 Km. Nirmala Gupta is not being treated as seniormost Lecturer. The second is that on retirement of the Principal Smt. Sanno Arya on 30th June, 1994, the orders of the Deputy Director of Education, II, Jhansi dated 25th June, 1994, order of District Inspector of Schools, Jalaun dated 23rd June, 1994, order of Deputy Director of Education II, Jhansi dated 8th July, 1994 and order of this Court dated 8th July, 1994 were not obeyed. It may be mentioned that these orders were for allowing Km. Nirmala Gupta to work as Principal. The third is that order dated 12th July, 1994, passed by District Inspector of Schools, Jalaun not obeyed. The fourth is that order dated 26th July, 1994 passed by Deputy Director of Education, II, Jhansi not obeyed. The fifth is that order dated 9th September, 1994 passed by District Inspector of Schools, Jalaun not obeyed. The sixth is that order dated 25th February, 1994 passed by the Assistant Accounts Officer for giving promotional grade to Km. Nirmala Gupta not obeyed. The seventh is that order dated 25th February, 1995 passed by the Assistant Accounts Officer to pay the balance of the promotional grade to Km. Nirmala Gupta was not obeyed. The eight is that the order dated 28th October, 1995 passed by the Deputy Director of Education II, Jhansi was not obeyed and the ninth is that the order dated 14th November, 1995 passed by the Deputy Director of Education, II, Jhansi was not complied with.

9. All these orders were passed in connection with the non-compliance of the orders of the Education Department which treated Km. Nirmala Gupta as seniormost Lecturer.

10. On 11th March, 1996, Deputy Director of Education, II, Jhansi passed an order directing the Authorised Controller to give effect to the departmental orders and to handover the charge of the office of Principal to Km. Nirmala Gupta. This order has been challenged by Smt. Vidyottama Gupta by filing Writ

Petition No. 9127 of 1995. This Court on 18th March, 1996 directed Respondents not to interfere in functioning of Km. Vidyottama Gupta as Principal. The writ petition was directed to be listed before this Court alongwith Writ Petitions No. 20658 of 1994, 9056 of 1996 and 29467 of 1995. In this writ petition, counter and rejoinder affidavits have been exchanged.

11. I have heard learned Counsel for the parties. From the facts narrated above, it is clear that the controversy between parties is about the seniority between Petitioner and Smt. Vidyottama Gupta which was already decided on 14th June, 1976 by the committee of management and thereafter by R.I.G.S. on 16th March, 1979. The aforesaid resolution of the committee of management and the order of the R.I.G.S. have not been questioned in the writ petitions mentioned above and pending in this Court. The committee of management decided the controversy wrongly or rightly about 20 years before. It was challenged before the appropriate authority but the determination of seniority by the committee of management was maintained. In the aforesaid facts and circumstances this Court through a Full Bench in case of Smt. S.K. Chaudhari v. Manager, Committee of Management, Vidyawati Darbari Girls Inter College, Lookerganj, Allahabad and Ors. (1991) 1 UPLBEC 250 (FB), has already held that this Court should not interfere if the seniority has been settled long back. The Full Bench has held as under:

The law is well settled that the Court will not interfere with list which had remained in existence for a long time and which had become final. In the present case, the Management had determined the seniority on 29.4.1976. This decision had been taken after affording opportunity to Dr. Asha Saxena. She did not file any appeal against the decision of the Committee of Management even though an appeal may have been preferred. Objections by Dr. Asha Saxena had been filed after a lapse of nearly 15 years. In the objections, which have been filed as Annexure "3" to the writ petition, of Dr. Asha Saxena, she has not taken a ground that seniority list was not prepared every year. The only objection raised was that she did not know about the insertion or provisions of Section 3 (1)(bb) in Chapter II and she filed the objections after coming to know of the aforesaid provisions. The seniority list has been existing since the year 1975-76 and we are not prepared to quash the seniority list after a lapse of nearly 15 years."

12. In the present case, the aforesaid view is squarely applicable. The committee of management determined the seniority on 14th June, 1976 which was challenged before the R.I.G.S. who maintained the order of the Committee of Management by order dated 16th March, 1979. In pursuance of the aforesaid orders, Petitioner Km. Nirmala Gupta functioned as Principal for a long period of about 8 years, against which no objection was raised by Respondent No. 1. The controversy was sparked only on 30th June, 1994 when the outgoing Principal without any authority in law handed over charge to Respondent No. 1 declaring her the seniormost Lecturer and directed the teachers and employees of the college to obey her commands. It is also relevant to mention here that before

Full Bench, the determination of seniority was actually challenged, however, in the present case the determination of seniority done in 1976 and finalised in 1979 has not been questioned at all. In the circumstances, I do not find any Justification for reopening the controversy after such a long time.

13. On behalf of Respondent No. 1 and the committee of management, it has been argued that on 10th December, 1995 the committee of management has decided the dispute of seniority which has not been challenged and the charge of the office of the Principal given to Respondent No. 1 is fully Justified. However, it is difficult to accept this contention raised on behalf of the Respondents. It may be mentioned that the seniority was already determined on 14th June, 1976 by the Committee of Management which was confirmed by the R.I.G.S. on 16th March, 1979. The Committee of Management could not have the jurisdiction to reverse the aforesaid orders after such a long time. As already observed, the resolution dated 14th June, 1976 and the order of the R.I.G.S. dated 16th March, 1979 have not been challenged in any proceedings. On basis of these orders, Petitioner had already officiated as Principal about 8 years which is admitted position. In these circumstances, the Committee of Management could have no jurisdiction to reverse the process after 19 years only to deprive the Petitioner a chance to officiate as Principal. The Division Bench of this Court in case of Nand Kumar Srivastava v. District Inspector of Schools, Deoria and Anr. 1995 ALJ 576 has observed as under:

In the present case at the time of selection in the year 1966 the Committee of Management has already decided the seniority of the Appellant as well as Respondent No. 2 and the seniority continued for sufficiently longtime as indicated in the earlier part of the judgment. No dispute was raised as is apparent from the evidence on record about that seniority. The dispute was first raised by the Respondent No. 2 while the charge of the post of Principal was to be given to the seniormost teacher. In all the seniority lists published so far. the Appellant N. K. Srivastava, has been shown to be senior. Earlier there was no dispute as matter of fact between these two persons about the seniority. The District Inspector of Schools under the garb to decide as to who should be given the charge of the Principal proceeded to decide the seniority of the Appellant as well as Respondent No. 2 even though the seniority of the Appellant had continued for a long time. The contention of the Respondent No. 2 that he has challenged the previously published seniority lists is without any foundation. He has not filed any document to show that he had made representations against the various seniority lists published from time to time and whether any decision was made in his favour holding him senior to the Appellant. Therefore, the District Inspector of Schools had no Jurisdiction to decide the seniority in collateral proceedings.

14. The situation in the present case is almost identical. Here the Committee of Management has tried to reverse the seniority already determined in the year 1976 which was given effect by the Committee of Management for many years.

In the circumstances, the Committee of Management could not have jurisdiction to reverse the seniority already determined.

15. The correctness of the submissions made by the learned Counsel for Respondents may be examined from another angle also. In the present case, it is not disputed that against the determination of the seniority by the Committee of Management on 14th June, 1976 representation/appeal was filed by the Respondent No. 1 before R.I.G.S. on which the order was passed on 16th March, 1979. Naturally, the order was passed in purported exercise of appellate power. Once the order passed by the Committee of Management is confirmed by the appellate authority, namely R.I.G.S., it cannot be reversed by the Committee of Management. Explanation to Order IX, Rule 13 of CPC contains the provision to this effect. The Explanation reads as under:

Explanation.--Where there has been an appeal against a decree passed ex parte under this rule, and the appeal has been disposed of on any ground other than the ground that the Appellant has withdrawn the appeal, no application shall lie under this rule for setting aside that ex parte decree.

It is true that the provisions of CPC are not applicable but the general principles contained therein will apply, which are in the interest of public policy to give certainty and to maintain the finality attached to the order of the appellate authority as provided under Regulation 5 of Chapter I of the Regulations which have statutory force. If the Committee of Management is permitted to reverse the seniority already determined in this manner, it shall be in violation of the finality clause mentioned above and the subsequent resolution dated 10th December, 1995 of Committee of Management should be held to be void. In my opinion, the order dated 11th March, 1996 passed by the Deputy Director of Education directing Authorised Controller to handover charge to Petitioner, is Justified and does not suffer from any error of law.

16. Learned Counsel for the Respondent No. 1 has also argued that there was no regulation to decide the seniority on basis of the age. It has been submitted that for determining the seniority, only provision was as contained in Regulations 2 and 4 of Chapter I, but the aforesaid Regulations provided length of service on substantive service of the institution as basis for determining seniority. The reliance has also been placed in the seniority list dated 13th May, 1970 filed as Annexure 5 to the counter-affidavit. It is the basis of the contention on which the Respondent No. 1 is claiming herself to be senior to Petitioner. However, a close examination of the provisions contended in regulations of Chapter I will show that the contention is wholly misconceived and this contention has no merits. The provisions contained in Regulations 1 to 6 of Chapter I were framed to give effect to the provisions contained in Section 16A of the Act which was inserted by U.P. Act No. 35 of 1958. Section 16A of the Act contained the provisions for providing participation to the heads of the institution and the teachers, in management of the institution. For giving effect to this object, the regulations were framed to provide the representation to the teachers in the Committee of

Management by rotation in order of seniority. For this purpose, the seniority list of teachers in substantive service was required to be maintained by the Committee of Management in accordance with the rules. Thus, the seniority was to be determined according to the rules. Regulation 4 provided that Manager shall prepare and maintain the seniority list showing therein the date from which the teacher is entitled to count his seniority. Regulation 6 contained the provisions that any change in the strength or grade to the teachers comprising the category shall be duly noted in the list of all concerned properly and intimating it to all. The aforesaid provision makes it abundantly clear that the list of seniority was to be published according to the grade of the teachers and the date from which seniority could be counted in that grade. Admittedly the Respondent No. 1 was appointed in L.T. grade on 8th July, 1967. She was approved also in this grade on 29th September, 1967. She participated in open and direct selection for the post of lecturer and she was selected as lecturer on 3rd August, 1969. On basis of the aforesaid selection, Petitioner Joined on 4th August, 1969 whereas Respondent No. 1 joined on 5th August, 1969. The approval was granted by R.I.G.S. on 27th March, 1970. There is no dispute that the provisions as then stood, a teacher could not be appointed without prior approval of the District Inspector of Schools. There is no dispute about the legal position that until approval was granted, the appointee could not get status of a teacher. Thus the date of appointment for both Petitioner and Respondent No. 1 will be taken to be 27th March, 1970 for computing the seniority in the grade of lecturer. It was only lecturer's grade in which Respondent No. 1 could have lien on the post. There was no question of continuity of service from earlier grade. For all purposes, it was a new and fresh appointment. It may be mentioned here that Respondent No. 1 has tried to claim her appointment as Lecturer by way of promotion which is not supported by any evidence on record. Contrary to it, the Committee of Management filed an objection against the claim of Respondent No. 1 before the R.I.G.S. and specifically asserted that the appointment was by direct recruitment and not by promotion. From the letter of approval also, it is clear that the appointment was by way of direct recruitment and not by promotion which is Annexure 3 to the counter-affidavit. There is not a single document from which it can be said that the appointment was by way of promotion. However, in seniority list which has been filed as Annexure 5 to the counter- affidavit the date of appointment shown is 7.8.1967 which was the date of appointment in L.T. grade. In the light of the aforesaid discussion and the legal position, it is absolutely clear that the list was obviously incorrect and required correction which was done by the Committee of Management on 14th June, 1976. The date of appointment of Respondent No. 1 could not be shown as 7.8.1967 which stood changed from 27.3.1970. As grade had changed, the seniority list ought to have been corrected accordingly as required under Regulation 6 of Chapter I.

17. Another related contention raised on behalf of the Respondent No. 1 is that the Petitioner could not be declared senior on basis of her being elder in age.

Regulation 2 of Chapter I of the Regulations reads as under:

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

18. Thus the requirement under the aforesaid Regulation is to maintain the seniority list in accordance with the rules. However, there is no mention in the Act or Regulation about the rules contemplated in the aforesaid Regulation. The rules have not been framed under the Act. A statute has to be construed according to the intention of legislative authority. The duty of the court is to ascertain the true intention of the Legislature. It is also settled principle that if a statutory provision is open to two interpretations, the Court has to choose that which fulfils the object sought to be achieved by Legislature, As there are no rules framed under the Act, the intention of the legislative authority could only be given effect, by inferring that the legislative authority had in mind service Rules applicable to teachers serving in Government Schools. Services of such teachers are governed by the Rules and Regulations applicable to the Government servants. It is not unknown that in Government service, the seniority is determined on basis of the age if the appointment of two or more employees has been made on the same date. If Petitioner was determined senior, on basis of the age, the action of the Committee of Management cannot be said to be illegal. Respondent No. 1 has not been able to show any Rules or Regulation which may be said to have been contravened by the Committee of Management in determining the seniority. In these circumstances, the claim raised on behalf of the Respondent No. 1 has no merit and deserves outright rejection. Annexure 5 to the counter-affidavit cannot be said to be a list of seniority prepared in accordance with Regulation and Petitioner rightly filed objection against this list for correctly placing her name and on basis of this seniority list, Respondent No. 1 cannot claim any benefit. It is clear from the list, Annexure 5 to the counter-affidavit that the Respondent. No. 1 was shown selected for representing the teachers in Committee of Management for the session 1975-76, while Petitioner should have been given a chance had the seniority list been rightly prepared, she rightly filed objection on 15th April, 1976. The contention of the Respondent No. 1 that the Committee of Management had no occasion to entertain the objection of Petitioner, is also not correct. The case of Nand Kumar Srivastava v. District Inspector of Schools, Deoria and Anr. 1995 ALJ 576, does not support Respondent No. 1 in any way. The facts of the present case are clearly distinguishable.

19. Learned Counsel for the Respondents has also submitted that the order of R.I.G.S. dated 16th March, 1979 was ex parte and was not an order passed in appeal. This contention is based on the order dated 20th April, 1981 which has been filed as Annexure 1 to the supplementary counter-affidavit. It has also been submitted on basis of the document filed as Annexure 17A to the counter-affidavit, that the appeal of the Petitioner is still pending. However, it is difficult

to accept these contentions of the Respondent. Reference of the subject in the letter dated 26th November, 1981, filed as Annexure 17A, is about the temporary promotion of Principal of the college. Admittedly, Petitioner was promoted and she officiated as Principal for about eight years. Merely on basis of the aforesaid letter, it is difficult to assume that the appeal is still pending. In any case, no interference is required by this Court on the basis of the alleged letter dated 26th November, 1981 with the order dated 16th March, 1979 after 16 years.

20. From over all consideration of the facts and circumstances of the case, I have no hesitation in saying that outgoing Principal illegally and without authority had given rise to this dispute and compelled two teachers to enter into reckless litigation for number of years. The Committee of Management also added fuel to the fire by changing the stand after such a long time which cannot be said to be fair and in the interest of the institution. The dispute if had been settled once, the public policy as well as interest of the institution required that the finality attached to it, should not be allowed to be reopened at the whims of the individuals as and when they like.

21. For the reasons stated above, the Writ Petition No. 20658 of 1994 delivered to be allowed vide order dated 20th June, 1994 filed as Annexure 18 to the writ petition is quashed and the Respondents are directed to allow Petitioner to function as Principal of the college.

22. Civil Misc. Writ Petition No. 29467 of 1995 has been filed by Committee of Management of the college challenging order dated 9th October, 1995 passed by the District Inspector of Schools requiring Manager to pay selection grade and promotional grade to Km. Nirmala Gupta failing which the action was proposed u/s 5 (3) of the Payment of Salaries Act. In this case, the resistance on the part of the Committee of Management was on basis of the fact that Km. Nirmala Gupta, Respondent No. 4 therein served as Principal and not as lecturer for a period of eight years and she has not been able to complete the requisite period of 16 years service as Lecturer for giving the selection grade and promotional grade. The contention is wholly misconceived. It cannot be disputed that Km. Nirmala Gupta was given a chance to officiate as Principal during the period the regular Principal was put under suspension and the disciplinary proceedings were pending against her. Thus the lien of Km. Nirmala Gupta was on her original post of Lecturer and it throughout continued even though she discharged the duties of Principal in absence of regular Principal. Thus under no provision of law she could be deprived of the benefit of the selection grade and promotional grade. The resistance on the part of the Committee of Management was not Justified. She continued to be Lecturer of the college throughout. The writ petition has no merits and is accordingly rejected.

23. Civil Misc. Writ Petition No. 9056 of 1996 has also been filed by Committee of Management challenging order dated 29th February, 1996 passed by the Deputy Director of Education by which he has appointed Authorised Controller u/s 6 (3) of the Payment of Salaries Act. It has already been found while dealing with Writ

Petition No. 29467 of 1995 that the resistance on the part of the Committee of Management, in paying selection grade and promotional grade to Km. Nirmala Gupta was unjustified. All the nine grounds mentioned in the order are with regard to non-compliance of the order passed in respect of Km. Nirmala Gupta. From the facts and circumstances narrated above, it cannot be disputed that the Committee of Management had not complied with various orders of the authorities passed one after another, to pay the amount due to Km. Nirmala Gupta and also to allow her to officiate as Principal. In the circumstances, the Respondent No. 1 rightly passed order dated 29th February, 1996 which has already been given effect to and Authorised Controller is functioning. The period of appointment is, however, only for six months which will expire on 28th August, 1996. The writ petition is thus disposed of finally with a direction to the authorities that if the orders passed by them are complied with during this period, the Authorised Controller shall be withdrawn and the Committee of Management is entitled to take charge of the management shall be handed over the charge. However, if the orders remain non-complied, it shall be open to the authorities to proceed in accordance with law.

24. Civil Misc. Writ Petition No. 9127 of 1996 has been filed by Smt. Vidyottama Gupta challenging order dated 11th March, 1996 passed by the Deputy Director of Education II, Jhansi Region, Jhansi directing Authorised Controller to give effect to the departmental orders and hand over the charge of the office of the Principal to Km. Nirmala Gupta. The claim of Smt. Vidyottama Gupta has already been found to be unjustified. This Court passed interim order dated 18th March, 1996 considering the Board examinations which have already been held. In the circumstances, there is no justification on the part of Smt. Vidyottama Gupta to continue in the office of the Principal. The order dated 11th March, 1996, Annexure 10 to the writ petition, does not suffer from any error of law and the writ petition has no merits and is, accordingly, rejected. The parties shall, however, bear their own costs.