
(2008) 08 AHC CK 0043
In the Allahabad High Court

Kumari Sarita Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 12-08-2008

Acts Referred:

Citation : (2008) 119 FLR 473

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sudhir Agarwal, J.—A selection for the post of Shiksha Mitra was made in year 2005 for the session 2005-06 wherein the petitioner was placed at serial No. 3. The Gram Shiksha Samiti recommended for appointment in favour of the candidate, who was at serial No. 1, but subsequently after receiving some complaints when an enquiry was made, it was found that the mark sheets submitted by the said candidate was not genuine and. therefore, he was not issued any appointment letter. The candidate next in the order of merit got married and, therefore, she was also not recommended for appointment. In the circumstances, the petitioner claimed that he. being next in the merit list, ought to have been appointed and made representation dated 9.3.2007 to the District Magistrate, which having not been decided, he approached this Court in Writ Petition No. 17449 of 2008 which was disposed of by this Court on 4.4.2008 with the following order:

The petitioner was a candidate for appointment to the post of Shiksha Mitra. According to her the select list which was finalized for Primary Pathshala, Bhaluhi, Block Bhathut, Distt. Goraldipur. She was at serial No. 3. The candidature of persons at Serial No. 1 & 2 has been set aside and she is now appropriate candidate for appointment. Petitioner has moved a representation to the District Magistrate on 09-03-08.

The District Magistrate, Gorakhpur, respondent No. 2 is directed to enquire into

the matter and pass appropriate order on the petitioner's representation dt. 9-3-08 within a period of two months from the date of production of certified copy of this order.

He will pass orders in accordance with law after giving to the petitioner an opportunity of hearing.

Accordingly, the writ petition is disposed of.

04-04-2008 Dt/- Bharti Sapru J.

The District Magistrate, pursuant to the said order has passed the impugned order dated 8.7.2008 rejecting claim of the petitioner on the ground that the complaint of the petitioner pertains to the year 2005 and since no appointment was made pursuant to the said advertisement, in the year 2008 the Gram Shiksha Samiti again advertised the vacancy and after making selection has made recommendation for appointment which is pending consideration. Therefore, there is no justification to give effect to the selection made in the 2005, which was for the session 2005-06. Learned Counsel for the petitioner submitted that since the petitioner was next in the merit list, therefore, he was entitled for appointment so long as the vacancy remained unfilled and his right to be recommended for appointment pursuant to the same selection remained intact and cannot be defeated.

The submission is thoroughly misconceived for the reason that the selection and appointment for the post of Shiksha Mitra is only for one session, namely, in the present case for the session 2005-06. The reason for non appointment is not so much of relevant after expiry of the period. The fact remains that in the year 2008, new advertisement has been made pursuant where to the eligible candidates applied and after making selection, recommendation has been made by the Gram Shiksha Samiti for appointment. The recruitment of 2005, being only for the session 2005-06, no candidate has a vested right to claim appointment, though the term of that session has already expired. At the best, if he finds that he was wrongly denied opportunity of employment, the remedy of seeking damages by approaching the appropriate forum in common law is always open to the petitioner. It is well settled that even a selected candidate has no infeasible right of appointment. It is appropriate at this stage to remind the observation made by a Division Bench of this Court in Special Appeal No. 305 of 2008, Sanjay Kumar Singh v. State of U.P. and Ors. decided on 3.3.2008 as under:

Everybody is forgetting that the scheme of Shiksha Mitra is to spread education and it is not a scheme for employment. What is being given is an honorarium to the concerned teacher. The appointment comes to an end at the end of the academic year, with right to continue if the performance is good.

In view thereof, I do not find any reason to interfere in the order impugned in this writ petition.

The petition is dismissed.