

(2011) 09 AHC CK 0024

In the Allahabad High Court

Case No : C.M. Contempt Petition No. 1367 of 2010

Laxman Prasad

APPELLANT

Vs

Chhote Lal, D.I.O.S. (Incharge), Ballia and others

RESPONDENT

Date of Decision : 08-09-2011

Acts Referred:

Citation : (2011) 09 AHC CK 0024

Hon'ble Judges : Sanjay Misra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sanjay Misra, J.—Heard Sri G. P. Gupta learned counsel for the applicant and Sri K. Sahi learned counsel for the opposite party.

2. Affidavit of compliance of the opposite parties as also rejoinder-affidavit of the applicant is available on record. Contempt is alleged of the order dated 30.3.2009 passed in writ petition No. 32500 of 2004, Laxman Prasad v. State of U. P. and others.

3. The writ court while passing the order dated 30.3.2009 had quoted and recorded an earlier order dated 27.10.1994 passed in writ petition No. 34733 of 1994, Laxman Prasad v. District Inspector of Schools, Ballia and others, whereafter the submission made by the petitioner has been noted which indicates that after notices had been issued in writ petition No. 34733 of 1994 the District Inspector of Schools at no point of time made any final adjudication with respect to the petitioner's status as Assistant Teacher. Consequently, the writ court under the order dated 30.3.2009 directed the District Inspector of Schools, Ballia to comply with the directions dated 27.10.1994 passed in the earlier writ petition and in case any decision has already been taken then the same be communicated to the petitioner.

4. In the compliance affidavit the opposite parties have come up with an order dated 24.4.2010 which they claim is a decision of the claim of the petitioner in

pursuance of the directions dated 30.3.2009 passed in the writ petition No. 32500 of 2004.

5. In the rejoinder-affidavit the petitioner has annexed an order dated 30.1.1995 as Annexure 1. He refers to such order and states that the District Inspector of Schools by the order dated 30.1.1995 had clearly found the appointment and selection of the petitioner to be in accordance with rules and regulations and, therefore, he submits that under the order passed by the District Inspector of Schools on 28.4.2010 he could not reject the claim of the petitioner.

6. These are two very contradictory stands taken by the petitioner (one) before the writ court in the writ petition No. 32500 of 2004 where it was held that there has been no final adjudication on his status by the District Inspector of Schools at any point of time and the (second) when his claim has been rejected by the District Inspector of Schools on 28.4.2010 he states that his status has been finally decided earlier by the order dated 30.1.1995 of the District Inspector of Schools.

7. Considering both the stands taken by the petitioner in the event his stand is that his claim stood finally decided on 30.1.1995 by the District Inspector of Schools then there was no occasion for the court to record that there has been no final adjudication of his claim. That order of the writ court has attained finality. The petitioner is now tracking back from the finding recorded in writ petition No. 32500 of 2004 since his claim has now been rejected by the order dated 28.4.2010 on merits. This contempt court cannot go behind the order of the writ court nor can it record any findings on the claim of the petitioner.

8. Consequently, it cannot be held that the opposite parties have disobeyed the directions issued by the writ court on 30.3.2009 passed in writ petition No. 32500 of 2004.

9. In case the petitioner is aggrieved by the order dated 28.4.2010 passed by the District Inspector of Schools, Ballia passed in compliance of the directions issued by the writ court it is always open to him to avail the remedy available to him in law. However, this court is not the appropriate forum to adjudicate such dispute.

10. This contempt petition is accordingly dismissed.

Notice, if any. Issued is discharged.

No order is passed as to costs,