

(1996) 11 AHC CK 0018

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 30634 of 1991

Lok Nath Misra and Another

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 06-11-1996

Acts Referred:

Uttar Pradesh Secondary Education Services Commission and Selection Boards Act,
1982 — Section 33

Citation : (1996) 3 AWC 1803 : (1997) 1 UPLBEC 63

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : Ram Niwas Singh and V.K. Chandel, for the Appellant; D.S.M. Tripathi, for the Respondent

Final Decision : Allowed

Judgement

M. Kntju, J.—By means of this petition, petitioners pray for a mandamus direction the respondents to pay salary of petitioner No. 1 as ad hoc lecturer in Civics since 10-7-1989 and salary of petitioner No. 2 as L. T. grade teacher from 23-10-1989 and to regularise their services in Amar Shaheed Intermediate College, District Varanasi.

2. I have heard learned counsels for the petitioners.

3. One Markandey Singh who was lecturer in Civics in the institution, was promoted as principal and he retired on 30-6-1989. Hence a vacancy arose on the post of Lecturer in Civics and petitioner No. 1 was appointed on the said post by resolution of the Committee of Management dated 8-7-1989. The petitioner No. 1 was given appointment by letter dated 9-7-1989 and a copy of the resolution and papers were sent to the District Inspector of Schools but the District Inspector of Schools did not approve or disapprove the appointment.

4. Similarly petitioner No. 2 was appointed as L. T. grade teacher by resolution dated 14-10-1989 and he was given appointment letter dated 15-10-1989 and

the papers were sent to the District Inspector of Schools but the District Inspector of Schools did not take any action it is stated in Paras 15 and 16 of the petition that the petitioners have been teaching since 1989 but no action has been taken by the respondents for giving salary to the petitioners. In Para 25 it is stated that the State of U. P. has issued an Ordinance regularising the services of ad hoc teachers vide Annexure 11 to the writ petition. Petitioners are claiming their regularisation on the basis of the said ordinance.

5. A counter-affidavit has been filed on behalf of respondent No. 1. In para 4 it is stated that the petitioners' appointments were not valid and hence no approval was granted to their appointments. In Para 10 of the counter-affidavit it is stated that the appointments were in violation of Section 18. In Para 13 it is stated that the petitioner's appointment cannot be regularised. In rejoinder-affidavit it is stated that the petitioner's appointment were valid. In Para 13 it is stated that the petitioner No. 1 retired on 30-6-1993 vide Annexure RA-1. There is no clear reason given by the respondents as to why the petitioners' appointment was not valid.

6. In my opinion the petitioner No. 1 gets regularised u/s 33-A (1-A) of the U. P. Secondary Education Service Commission Act since he was appointed by promotion on ad hoc basis against a substantive vacancy in accordance with Para 2 of the Removal of Difficulties Orders prior to 1991. As regard petitioner No. 2 since he was appointed directly as L. T. grade before 14-5-1991, he also gets regularised u/s 33-B (1) (a) (i). It may be clarified that since petitioner No. 1 got regularised in view of Section 33-A as stated above the short term vacancy on which petitioner No. 2 was appointed become a regular vacancy, on the regularisation of petitioner No. 1.

7. It may be pointed out that while u/s 33-A the regularisation is automatic, u/s 33-B the regularisation has to be done by a selection committee as provided in sub-section (2) of Section 33-B. However, a long time has elapsed and in my opinion petitioner No. 2 is clearly entitled for regularisation. Hence no useful purpose would be served in sending the matter to the selection committee. Hence I direct that both petitioners stand regularised. They will be given arrears of salary for the period for which they actually worked within three months of production of a certified copy of this order before the District Inspector of Schools. The petition is allowed.