
(1996) 08 AHC CK 0130
In the Allahabad High Court
Case No : C.M.W.P. No 18230 of 1996

Madan Gopal Agrawal and Others

APPELLANT

Vs

District Inspector of Schools and Another

RESPONDENT

Date of Decision : 14-08-1996

Acts Referred:

Uttar Pradesh Intermediate Education Regulations, 1921 — Regulation 7(2)

Citation : (1996) 4 UPLBEC 2922

Hon'ble Judges : B.S. Chauhan, J

Bench : Single Bench

Advocate : S.U. Khan, K.B. Srivastava and Shashi Kumar, for the Appellant;

Judgement

B.S. Chauhan, J.—In this petition a question has been raised, i.e., the interpretation of certain Government Orders giving the benefit of L.T. Grade to the teachers working in C.T. Grade.

2. Prior to 1989 teachers used to be appointed in various grades like B.T.C. and C.T., etc. Regulation 7(2) of Chapter II of the Regulations framed under U.P. Intermediate Education Act, 1921 provided for the promotion from B.T.C. Grade to C.T. Grade. The aforesaid provision was deleted by means of a Notification dated 19.8.1992. The Government issued a G.O. on 3.6.1989 declaring the C.T. Grade as Dying Cadre.

3. This Court, while deciding the case of Santosh Kumar Singh v. District Inspector of Schools, Meerut and Ors. 1995 (3) AWC 1577 : 1995 ESC 92, gave the interpretation to the terms of the said Government Order dated 3.6.1989 as under:

The C.T. Grade is now a Dying Cadre and those who have completed five years in C.T. Grade automatically become L.T. Grade teachers, and there is no question of considering their suitability. Since the Petitioner was appointed as C.T. Grade teacher on 1.12.1981, he completed five years on the post on 1.12.1989, he is entitled to be promoted on L.T. Grade retrospectively from 1.12.1989.

4. The State issued another Government Order on 19.10.1989 which provided that the C.T. Cadre had been declared as Dying Cadre with effect from 11th August, 1989 and, thus, no teacher shall be appointed in C.T. Grade nor any post shall be sanctioned in C.T. Grade. However, it provided further that the teachers who are working in the C.T. Grade and possess the requisite qualification provided in the Government order dated 2nd June, 1989 and had completed ten years satisfactory service, they shall be entitled for L.T. Grade. The aforesaid Government Order was further amended by another Government Order dated 2.12.1989 which modified the earlier Government Order to the extent that the teachers working in C.T. Grade and possess the requisite qualification as provided under the earlier Government Order dated 2.6.1989 and have completed five years in C.T. Grade and have completed ten years satisfactory service shall be given L.T. Grade. Thus, the Government Order dated 2.12.1989 has modified the earlier Government Order to the extent that out of ten years service, five years service should be in the C.T. Grade to make a person eligible for consideration of the grant of L.T. Grade. The issue was considered by this Court in the case of Smt. Aruna Ghosh v. State of U.P. and Ors. 1995 (1) AWC 576 : 1995 (2) UPLBEC 763 and this Court held that a C.T. Grade teacher would be entitled to get L.T. Grade if he has completed the five years service in C.T. Grade and ten years satisfactory service as a teacher and is possessed of the requisite training and other academic qualifications.

5. In the instant petition, the issue has been raised that the Petitioners had been appointed directly in C.T. Grade. Therefore, they become entitled for L.T. Grade after completing five years service in C.T. Grade.

6. Sri S. U. Khan, learned Counsel for the Petitioners has argued that the terms and conditions in the subsequent Government Order dated 2.12.1989 to the extent that the C.T. Grade teachers shall be granted L.T. Grade after completing five years service in C.T. Grade and their ten years service is found satisfactory are self-contradictory. The contention is without any force. The requirement of the Government Orders issued from time to time, according to me, are as under:

1. A person could be appointed in L.T. Grade after completing the five years service in C.T. Grade provided he is possessed of the requisite qualifications and a post is available in the promotion quota as required mandatorily under the Rules, his claim may be considered for promotion to the post in L.T. Grade.

2. The judgment in Santosh Kumar Singh (supra) providing for automatic promotion has not been decided correctly as the Government Order declaring the C.T. Grade as a Dying Cadre does not make a teacher in C.T. Grade entitled for promotion in the L.T. Grade as the promotional

quota may not be available and declaring C.T. Grade as Dying Cadre means that no appointment shall be made in C.T. Grade after the issuance of the said Government Order, but the teachers in C.T. Grade would continue to remain in the said Cadre till they are promoted to L.T. Grade in promotional quota strictly

in accordance with law.

3. The teachers if they have been promoted to C.T. Grade from B.T.C. Grade would become eligible for consideration of the L.T. Grade if they had completed five years teaching experience in C.T. Grade.

4 The teachers working in C.T. Grade if they are not promoted under the promotional quota would become eligible for consideration of the grant of L.T. Grade (Not promotion to the post in L.T. Grade), if they possess the requisite qualifications and their services of ten years are found to be satisfactory.

7. Thus, I am in respectful agreement with my brother, Hon''ble Mr. Justice S. R. Singh, while deciding the case of Smt. Aruna Ghosh (supra). The aforesaid judgment in Smt. Aruna Ghosh does not require any explanation except to the extent to say so expressly that under the different Government Orders issued from time to time, the teachers working in C.T. Grade become eligible to be considered for L.T. Grade as a personal pay-scale. This does not mean the posting in L.T. Grade and the post which becomes vacant after the retirement of such a teacher would not be deemed to be a vacant post in L.T. Grade nor such a person can take benefit on the post of the L.T. Grade for promotion and seniority as he is not holding the post in Cadre in L.T. Grade vide Dr. Rashmi Srivastava and Dr. B.D. Srivastava Vs. Vikram University and others, ; Virendra Pandey v. State of U.P. AIR 1994 19 : Writ Petition No. 30754 of 1991; Madhuri Devi v. Regional Inspectress of Girls Schools decided on 20.3.1995 (since reported in 1995 (2) AWC 1286) and Vipin Kumar v. District Inspector of Schools 1993 (2) ESC 456.

It is not to be treated as their promotion in L.T. Grade till they are promoted to the post in L.T. Grade strictly in accordance with law.

8. As the question of eligibility of the Petitioners requires investigation of facts, the District Inspector of Schools is directed to examine the individual cases for their respective claims in accordance with law and in the light of the observations made in the judgment within a period of three months from the date of production of a certified copy of this order in their cases.

9. With these observations, the writ petition is disposed of finally.

10. In view of the facts and circumstances of the case, there shall be no order as to costs.