
(2003) 09 AHC CK 0076
In the Allahabad High Court
Case No : Writ Petition No. 3447 (S/S) of 2002

Mannu Lal and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 12-09-2003

Acts Referred:

Uttar Pradesh Basic Education (Teachers) Service Rules, 1981 — Rule 29
Uttar Pradesh Recognized Basic Schools (Junior High School) (Recruitment and Conditions of Services of Teachers) Rules, 1978 — Rule 2

Citation : (2004) 2 AWC 1005

Hon'ble Judges : U.K. Dhaon, J

Bench : Single Bench

Advocate : P.K. Srivastava, for the Appellant; Ravi Nath Tilhari, C.S.C., for the Respondent

Judgement

U.K. Dhaon, J.—Heard Miss. Renu Misra holding brief of Sri P.K. Srivastava and Sri R.N. Tilhari, learned counsel appearing on behalf of opposite parties.

2. The petitioners have approached this Court against the order dated 29.6.2002 by which the petitioners were directed not to sign the attendance register after 30.6.2002.

3. The brief facts of the case are that at the relevant time, the petitioners were working as Assistant Teacher Basic. The date of birth of the petitioners is 1.7.1942, and as the petitioners were completing 60 years of age on 30.6.2002, the said order dated 29.6.2002, which is under challenge in the instant petition was issued by the Nagar Shiksha Adhikari. The learned counsel for the petitioners submits that in compliance of the interim order dated 3.7.2002 all the petitioners have worked till 30.6.2003. She further submits that academic session starts from 1st May and it ends on 30th April in the next following calendar year. She further submits that in accordance with Rule 29 of the U.P. Basic Education (Teachers) Service Rules, 1981, the petitioners have a right to continue in service till the end of the academic session.

4. Sri R.N. Tilhari, learned counsel for the opposite parties No. 2 and 3 submits as the date of birth of the petitioners is 1.7.1942 they have attained the age of superannuation on 30.6.2002 and there was no illegality in the impugned order dated 29.6.2002. He further submits that rule also provides that a teacher who attains the age of 60 years on 30th June shall not be entitled to continue till the end of the academic session. He has relied upon a decision of this Court dated 31.8.1993 passed in Special Appeal No. 524 of 1993, Committee of Management v. Sheel Chandra Tyagi.

5. I have considered the arguments of the learned counsel for the parties and gone through the record.

6. There is no dispute between the parties that the petitioners were born on 1.7.1942. There is also no dispute that the academic session starts from 1st May and ends on 30th April in the next following calendar year. Rule 2 (a) of the U.P. Recognised Basic Schools (Junior High School) (Recruitment and Condition of Services of Teachers) Rules, 1978, provides that academic session means the year commencing on 1st May and ending on 30th April in the next following calendar year. Rule 29 of the U.P. Basic Education (Teachers) Service Rules, 1981, provides that a teacher who retires during an academic session shall continue to work till the end of the academic session. In the instant case, the session was started on 1.5.2002 and the petitioners were attaining the age of superannuation on 30.6.2002 and as such, they were entitled to continue till the end of the academic session 2002-2003. In pursuance of interim orders the petitioners have worked till 30.6.2003. The controversy is only on account of the fact that earlier the session used to start from 1st July and it was ending on 30th June of the following year but in the year 1984 an amendment was made in Rule 2 (a) and the word 1st May and 30th April was substituted in place of 1st July and 30th June. The case law cited by the learned counsel for the opposite parties is not applicable to the facts of the present case as in the instant case, it is admitted case of the parties that the academic session was started on 1.5.2002.

7. In the result, the writ petition succeeds and a writ in the nature of certiorari is issued quashing the order dated 29.6.2002, a copy of which has been annexed as Annexure 7 to the writ petition and a writ in the nature of mandamus is issued directing the opposite parties to release the retiral benefits to the petitioners keeping in view that they have worked till 30.4.2003.

8. In the circumstances, there shall be no order as to costs.