

(2008) 11 AHC CK 0122

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 58044 of 2008

Mohammad Jabbar Siddiqui and another

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 11-11-2008

Acts Referred:

Citation : (2008) 11 AHC CK 0122

Hon'ble Judges : V.K.Shukla, J

Final Decision : Dismissed

Judgement

V.K. Shukla, J

1. In the present case petitioners had been performing and discharging duties as Assistant Teacher at Primary School run by Basic Shiksha Parisad Allahabad. Pursuant to Government Orders dated 01.09.2001 and 29.06.2002 applications were invited for appointment for the post of Assistant Coordinator at their respective blocks. Petitioners applied and were selected to function as B.R.C. After duration of said appointment come to an end, petitioners were repatriated back to their original post of Assistant Teacher and thereafter fresh selection proceedings are undertaken pursuant to advertisement dated 26.09.2008. in this background petitioners have contended that they have not been called for. At this juncture present writ petition has been filed.

2. Learned counsel for the petitioner Dr. S.B. Singh, contended with vehemence that petitioners fulfilled eligibility criteria and in all eventuality they are liable to be called, as such authorities concerned have acted arbitrarily in not considering the candidature of the petitioners for being appointed as Coordinator at Block Resources Centre in District Jalaun, as such writ petition in question deserves to be allowed.

3. Learned Standing counsel countered the said arguments and contended that none of the legitimate rights of petitioner are infringed as such writ petition deserves to be dismissed.

4. After respective arguments have been advanced factual position qua which there is no dispute that appointment of the petitioners was made under a Scheme covered under Government Orders dated 01.09.2001 and 29.06.2002. Under the said scheme itself appointment in question is limited on maximum side for two years and that to when after expiry of period of one year work and conduct is found to be satisfactory.

5. Under the existing Scheme which has been made appointment on the post of Coordinator and Assistant Coordinator at Block Resources Centre maximum life span has been provided for i.e. two years. Initially appointment is to be made for one year and thereafter in case work and conduct of an incumbent so appointed being satisfactory, same would liable to be extended for further one year and thereafter same was not liable to be extended. Once life span of present assignment is for two years.

6. In the present case once petitioners have completed two years, in this background action taken by respondent by not calling petitioners in fresh selection is not at all liable to be interfered with and said action is strictly in consonance with the aforesaid Government Orders.

7. This Court in the case Shailendra Kumar Mishra and others Vs. State of U.P. and others (Civil Misc. Writ Petition No. 27778 of 2003) decided on 09.04.2004 in the light of aforementioned Government Orders has considered this aspect of the matter and therein specific view has been taken that petitioners were not held out any assurance under the Programme to be engaged as Coordinators/ Assistant Coordinators for indefinite period. In the said judgement clearly considered the right of the Coordinators/Assistant Coordinators at Block and Panchayat levels.

8. Said judgment has been affirmed in Special Appeal No. 522 of 2004 (Net Ram Gangwar Vs. State of U.P.) reported in 2004(3)ESC 1911. View further has been taken, that this assignment is on deputation and incumbents have been repatriated back to their substantive status of Assistant Teacher, and all the eligible candidates have been given the right to be considered under the new scheme without any preference. Apart from this in Civil Misc. Writ Petition No. 36806 of 2007, Uttam Singh Vs. State of U.P. wherein candidates who were earlier working and had completed two years were restrained from participating in selection process, in fresh selection proceedings, questioned there exclusion from zone of consideration, same has not been accepted by this Court and following earlier judgements writ petition has been dismissed on 27.05.2004. In Special Appeal No. 1723 of 2004 decided on 17.03.2008, Division Bench of this Court has taken the view that present assignment is a sort of deputation, and under relevant government decision, this has to be for an outer side period of two years. Appellant therein completed two years were repatriated back, and said action has been affirmed.

9. Once it has been provided that maximum period is two years then in this

background if fresh selection process is undertaken for making selection and appointment and petitioners have been repatriated back to their original post of Assistant Teacher after completing two years then petitioners have got no legitimate right on this score to claim that in fresh selection proceedings they be invited.

10. Consequently present writ petition is dismissed.