
(2002) 02 SC CK 0101

In the Supreme Court Of India

Case No : Civil Appeal 961, 962 of 1999

Mohd. Altaf and Others

APPELLANT

Vs

Public Service Commission and Another

RESPONDENT

Date of Decision : 20-02-2002

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (2002) 93 FLR 1208 : (2002) 1 JT 81 Supp

Hon'ble Judges : M. B. Shah, J; B. N. Agrawal, J

Bench : Division Bench

Final Decision : Partly Allowed

Judgement

1. Mr. Prag P. Tripathi, learned senior counsel appearing on behalf of respondent No. 1- U.P. Public Service Commission (for short the Public Service Commission) submits that in compliance with the order dated 10th January, 2001, Public Service Commission has prepared a list of eligible candidates which is produced before us today in court and is reproduced as under:

"Categories of Petitioners"

(A) Lecturer in CBSE/ICSE Board's recognized colleges: 1. Mohd. Altaf CA Nos. 961-962 of 1999 2. Mahendra Pratap CA Nos. 963-966 of 1999 Singh 3. Vinod Kumar CA Nos. 965-966 of 1999 Sharma 4. Dhananjai Dwivedi CA Nos. 974-975 of 1999 5. Mohd. Iqbal CA Nos. 967 of 1998 6. Maheshwar Singh CA Nos. 974-975 of 1998 (B) L. T. Grade Teachers/Trained Graduate Teachers: 1. Devendra Swaroop C.A. No. 968 of 1999 2. Virendra Kumar Singh C.A. No. 968 of 1999 3. Onkar Singh C.A. No. 968 of 1999 4. Ram Prakash C.A. Nos. 970-971 of 1999 5. Anoop Saxena C.A. No. 969 of 1999 6. Jamuna Prasad C.A. No. 969 of 1999 Gangwar 7. Fateh Chand C.A. No. 3896 of 1999 8. Ram Pal C.A. Nos. 970-971 of 1999 9. Kamal Prakash CA Nos. 970-971 of 1999 10. Mahendra Pal SLP No. 10048 of 1999 (C) Not validly appointed teacher as per experience certificate given by education department, U.P.: 1. Dr. RamLal C.A. Nos.

961-962 of 1999 ' 2. Prabhakar Tripathi C.A. No. 974 of 1999 3. Arun Kumar Tiwari C.A. No. 970-971 of 1999 4. Vijay Narayan Singh C.A. Nos. 963-966 of 1999 5. Ram Chandra C.A. Nos. 970-971 of 1999 Pandey 6. Smt. Asha Singh C.A. Nos. 970-971 of 1999 7. Suresh Narayan C.A. Nos. 970-971 of 1999 Pandey 8. Sabhajeet Singh C.A. Nos. 963-966 of 1999 9. Sri Prakash Dwivedi CA Nos. 970-971 of 1999 10. Prem Bihari C.A. No. 972 of 1999 @ Saran Sharma SLP(C) 15590 of 1999 (D) Experience Certificates not signed by education department's officers: 1. Rajendra Mani CA Nos. 970-971 of 1999 Pandey 2. Ram Singh C.A. No. 968 of 1999 (E) Teacher on fixed pay Rs. 700/- per month: 1. Dharmatma Nand CA Nos. 970-971 of 1999 Singh Fresh application for Impleadment: 1. Virender Kumar Mishra Experience of Lab. Asstt. since May, 1991 to Feb., 1996. 2. Santosh Kumar Saxena - Experience less than 3 years."

2. He submits that the said list consists of number of other persons who have not preferred any appeal or petition before this Court and he seeks a clarification whether the order passed by this Court would be applicable to them or not. In our view , our order is passed on an interpretation of the statutory rules and therefore, it would be applicable to all concerned who appeared in the interview on the relevant date.

3. With regard to the names of the candidates, who appeared in the interview, as mentioned in paragraph B, it has been pointed out by the learned counsel for the respondent that, qualification prescribed for the principals, government intermediate colleges, as per the statutory rule, inter-alia, is as under:

"Essential:

(1).....

(2).....

(3) At least three year's experience as head of a higher secondary or normal school or in teaching intermediate or higher classes or as a lecturer in C.T. or L.T. training college."

4. He submits that normal interpretation of the aforesaid clause would mean that a candidate must be possessing three year's experience as a head of higher secondary or normal school or must be having teaching experience at the intermediate or higher classes but such teaching experience cannot be in a school where he was teaching lower classes than intermediate classes.

5. In our view, this submission cannot be accepted in view of the regulations framed by the state government as mentioned in appendix 'A' to the said regulations which provide that higher classes means classes from IX to XII and experience of teaching these classes is admissible for the post of head master of intermediate college. This is also clarified by the state government by issuing a circular dated April 12, 1973.

6. With regard to the list of candidates mentioned in (C), (D) and (E) categories,

it is his submission that to find out whether the candidates were appointed as a teacher or not and that they were having experience as per the certificate produced by them, the Public Service Commission has adopted a criteria to find out from the educational authority whether their eligibility certificate was in order. For this purpose, they had made necessary inquiry from joint director of education. It is his contention that for being validly appointed as a teacher as per the provisions of the U.P. Intermediate Education Act, 1921 (for short 'the U.P. Education Act') the sanction of the concerned authority is required to be obtained. If such sanction is not obtained, then it cannot be said that the person is validly appointed as a teacher in any school including private schools. For this purpose he relied upon Section 16 (E) of the U.P. Education Act. As against this, Mr. Raj Kumar Gupta, the learned counsel appearing for some of the appellants submits that the procedure which is required to be followed u/s 16(E) is not required to be followed in a school which is self-financed institution as they are not getting any grant from the state government and for that purpose separate exemption notification has been issued by the state government. In our view, whether there is a separate notification granting such exemption or not, is not required to be decided in these appeals. It would be open to the Public Service Commission to verify the said fact and decide it in accordance with law by a speaking order.

7. At the time of deciding the aforesaid questions, the Public Service Commission would take into consideration the documents which are already produced on record and which are endorsed by the joint director of education department. If necessary, such candidates would be given personal hearing by the Public Service Commission.

8. Lastly, it is clarified that the directions issued by this Court on 10.1.2001 as well as today would be implemented in favour of all the eligible candidates. With these observations, these appeals and special leave petitions stand disposed.

9. I.A. No. 12 in C.A. Nos. 974-975/1999. Mr. Ashok Kumar Singh, the learned counsel appearing for the applicant submits that the applicant Maya Singh is at serial No. 228 in the merit list. With regard to the said candidate, learned counsel appearing for the Public Service Commission states that a speaking order would be passed disposing of the contentions which are raised in the I.A. treating it as a representation to the Public Service Commission and also other representation which he has made.

10. I. A. No. 27 in C.A. Nos. 963-966/99. U.P. Public Service Commission is directed to consider the representation made by the applicant - Santosh Kumar Saxena by a speaking order.

11. In view of the order passed above, remaining IAS for intervention/impalement/ transposition would not survive and stand disposed of accordingly.