
(1992) 07 AHC CK 0069

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 24036 of 1992

Nitya Nand

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 10-07-1992

Acts Referred:

Citation : (1992) 3 AWC 1522

Hon'ble Judges : M.P. Singh, J

Bench : Single Bench

Advocate : Ved Byas Mishra, for the Appellant;

Final Decision : Allowed

Judgement

M.P. Singh, J.—On 23-12-1985 the Petitioner was appointed as adhoc lecturer in English in Bapu Degree College, Pipiganj, Gorakhpur.

2. After seven years of his continuing as adhoc teacher his prayer for regularisation has been refused by means of the impugned order.

3. The regularisation has been refused on the ground that he did not possess the minimum requisite qualification for appointment as a Lecturer in English on the date of the appointment.

4. The Petitioner passed his B.A. examination in Ist Division and M.A. IInd Division. According to Regulation 1113(i)(b) of the First statute of Gorakhpur University the Petitioner became eligible to be appointed as Lecturer Before issuing the order of appointment, the application form and the mark-sheet of the Petitioner were thoroughly scrutinised by the authority concerned.

5. The Petitioner continued in service for seven years He was led to believe that his appointment was in accordance with law. He was rightly hopeful of getting his services regularised.

6. The authorities are expected to act in accordance with law they must have

scrutinised all the application forms and the requisite qualifications Even if there was some lacuna, the authorities acquiesced to the said infirmity and appointed the Petitioner as a Lecturer It will be deemed that the Petitioner possessed the minimum requisite qualification. The principle of promissory estoppel will come into play and the authorities are estopped from raising an objection on that point after seven years. The principle of law enunciated by the Supreme Court in the case Shri Krishnan Vs. The Kurukshetra University, Kurukshetra, , becomes applicable in the instant case.

7. The doctrine of promissory estoppel being an equitable doctrine, it must yield place to the equity if the larger public interest so requires This doctrine has been reiterated by the Supreme Court in the case State of Bihar v. Usha Martin Industries Ltd. 1987 (65) STC 430 , and Assistant Commissioner of Commercial Taxes (Asst.) Dharwar and Others Vs. Dharmendra Trading Company and Others, .

8. Another equally important point raised by the learned Counsel was that the impugned order was a non speaking order. There should have been reasons. In the case S.N. Mukherjee Vs. Union of India, , the Supreme Court has taken a view that even administrative orders must be supported by reasons. The recording of reasons by administrative authority serves a good purpose, namely, it excludes the chances of arbitrariness and assures fairness in public dealings. While passing the impugned order it was mandatory on the part of the Director to give reasons in support of his order. A perusal of the order indicates that there was no application of mind before the impugned order was passed.

9. After hearing the learned Counsel for the Petitioner and the learned standing counsel I am of the view that the impugned order suffers from the vice of arbitrariness

10. Accordingly the writ petition succeeds. The order dated 23-6-1992 passed by the Director is hereby quashed. He is directed to reconsider the question of regularisation in accordance with law within a period of one month from the date of filing of a certified copy of this order before him.

11. A certified copy of this order may be issued to the learned Counsel for the Petitioner within a week on payment of usual charges.