
(2003) 02 AHC CK 0162

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 1031 of 2002

Onkar Madhav (Dr.)

APPELLANT

Vs

Uttar Pradesh Higher Education Services Commission and
Others

RESPONDENT

Date of Decision : 10-02-2003

Acts Referred:

Uttar Pradesh State Universities Act, 1972 — Section 31C

Citation : (2003) 5 AWC 3759 : (2003) 2 UPLBEC 1020

Hon'ble Judges : Prakash Krishna, J; M. Katju, J

Bench : Division Bench

Advocate : Shashi Nandan, for the Appellant; H.R. Mishra, Krishna Murari, Paramatma Rai and S.C., for the Respondent

Final Decision : Dismissed

Judgement

M. Katju, J.—This writ petition has been filed against the impugned order dated 29.12.2001 Annexure 12 to the writ petition passed by the Director of Higher Education, U.P. respondent No. 3.

2. In Para 9 of the writ petition it is stated that the petitioner was appointed part time Lecturer in Dharam Samaj College, Aligarh on 13.11.91 and since then he had been functioning as Lecturer.

3. The petitioner applied for regularisation by representation dated 11.8.97 Annexure 2 to the writ petition claiming the benefit of Section 31-C of the U.P. State Universities Act.

4. It is alleged in Para 13 of the writ petition that thereupon he made several representations and the last representation was made on 23.5.2001 vide Annexure 3. It is further alleged in Para 14 of the writ petition that the Secretary of the Management of the College has sent a recommendation in favour of the petitioner for his regularisation vide order dated 10.4.2000 and 8.7.2001 Annexures 4 and 5. When no heed was paid to the petitioner's representation,

the petitioner filed Civil Misc. Writ Petition No. 31705 of 2001 before this Court. On 3.9.2001, the said writ petition was disposed off with the direction that the Director of Higher Education shall look into the grievance of the petitioner and pass appropriate order if possible within two months. Photostat copy of the judgment dated 3.9.2001 is Annexure 7 to the writ petition. After the said judgment, the petitioner made a representation to the Director of Higher Education dated 10.9.2001 which is Annexure 8 to the writ petition. The Secretary of the Committee of Management has also sent a recommendation letter dated 14.10.2001 to the Director of Higher Education vide Annexure 9 recommending that the petitioner be regularized. In para 23 of the petition it is stated that on 14.12.2001, the petitioner appeared before the Director of Higher Education, the Director said that the petitioner has obtained the appointment on the basis of a forged appointment letter. The petitioner made a representation to the Director of Higher Education on 14.12.2001 vide Annexure 10. Ultimately by order dated 29.12.2001, the Director of Higher Education has rejected the representation of the petitioner vide Annexure 12 to the writ petition.

5. A counter-affidavit has been filed on behalf of respondent No. 5 and we have perused the same. In Para 5 of the same it is stated that an advertisement was issued by the U.P. Higher Education Service Commission, Allahabad published on 15.7.2000 for the post of Lecturer in Drawing and Painting and respondent No. 5 was one of the applicants and respondent No. 5 was selected for appointment on the said post. Photostat copy of the appointment letter dated 22.5.2001 is Annexure CA-1. By approval order dated 16.8.2001 issued by the respondent No. 3 the petitioner was placed as lecturer in Drawing and Painting in the College in question. Photostat copy of the placement order is Annexure CA-2. In Para 12 of the counter-affidavit it is stated that the respondent No. 3 has dismissed the petitioner's representation with the finding that the petitioner failed to produce the original appointment order dated 13.11.91. He has further reduced a finding that the records produced before him go to show that the petitioner was paid salary as a part time Lecturer in 1993-94 and prior to that the records indicate that his name was not there. The petitioner failed to establish that he was appointed prior to 22.11.1991 and thus, he is not entitled for regularisation u/s 31 -C of the Act.

6. We have carefully considered the submissions of the learned Counsel for the parties and perused the record. A perusal of the impugned order dated 29.12.2001 Annexure 12 to the petition shows that findings of fact have been recorded therein that the petitioner was never appointed before 4.11.91. The Secretary of the College has stated that he had never issued any order for appointment in favour of the petitioner and the petitioner has never been appointed prior to March, 1992. The petitioner has been asked to produce the original appointment letter but the petitioner never produced the same. Hence, it was held in the impugned order that the petitioners appointment letter appears to be fictitious. In fact respondent No. 5 is a regularly selected candidate and is working on the post and the petitioner could not have worked after his

appointment on 16.8.2001.

7. The findings in the impugned order are findings of fact and hence we cannot interfere in writ jurisdiction. The writ petition is dismissed.