
(1992) 11 AHC CK 0008
In the Allahabad High Court
Case No : Special Appeal No. 92 of 1991

Patiram Pal

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 09-11-1992

Acts Referred:

Uttar Pradesh Intermediate Education Regulations, 1921 — Regulation 5, 6(1)

Citation : (1993) 2 AWC 925

Hon'ble Judges : M.K. Mukherjee, C.J.;Sudhir Narain, J

Bench : Division Bench

Advocate : Ashok Khare, for the Appellant;

Final Decision : Dismissed

Judgement

Sudhir Narain, J.—This appeal has been filed against the order of the learned Judge for this Court, dated 27-8-1991, dismissing the writ petition whereby the Appellant was claiming the right to be promoted as a teacher in L.T. grade.

2. The facts in brief are that there is an Institution known as Prakash Intermediate College Bharthana, district Etawah. On 30-11-1978 a vacancy was caused on promotion granted to Sri Bhudeo Mishra. On 9-9-1979 the Committee of Management of the institution passed a resolution whereby Sri Sheo Shanker Pathak, Respondent No. 4, was granted temporary promotion to L.T. grade for teaching Economics to students of High School. In the resolution it was mentioned that there was no proper arrangement for teaching Economics to the students of High School and the Respondent No. 4 was qualified for being appointed as teacher to teach Economics to the students of High School and he should be promoted from C.T. grade to L.T. grade, A further resolution was passed on 14th December 1979 by the Committee of Management for hid regular promotion to L.T. grade. These resolution were forwarded to the District Inspector of Schools, Etawah He approved the promotion of the Respondent No. 4 to L.T. grade. The Petitioner, aggrieved by the said order, filed a writ petition before this Court. The learned Judge has dismissed the writ petition by order

dated 27-8-91. Hence this Special Appeal as the instance of Petitioner appellate.

3. The learned Counsel for the Appellant has urged two points.

4. The first submission of learned Counsel for the Appellant is that the vacancy was caused on the promotion of Sri Bhudeo Mishra He was a Hindi teacher and on his vacancy a teacher can be appointed who is qualified to teach Hindi to the students of High School. The Respondent No. 4 was not qualified for teaching Hindi and, therefore, he could not be promoted. According to the Appellant the vacancy should be granted on a post which is to be filled by such teacher who could teach Hindi to the students of High School and Intermediate. The vacancy should be treated subject wise.

5. Regulation 6(1) of Chapter II of Regulations framed under the Intermediate Education Act 1921 reads as under:

6 (1). Where any vacancy in the lecturer's grade or in the L.T. grade as determined under Regulation 5, is to be filled by promotion. all teachers working in the L.T. or the C.T. grade, at the case may be, having a minimum of five years continuous substantive service to their credit on the date of occurrence of the vacancy shall be considered for promotion by the Committee of Management without their having to apply for the same provided they possess the prescribed minimum qualifications for teaching the subject in which the teacher in the lecturer's grade or in the L.T. grade is required.

6. The interpretation of this provision came up for consideration before a Division Bench of this Court in B.P. Tripathi v. State of U.P. 1985 UP LB EG 669 It was held by the Court that the expression "for teaching the subject in which the teacher in the L.T. grade is required cannot be read as for teaching the subject which was bring taught by the teacher whose vacancy is to be fulfilled". It is thus clear that the Committee of Management is entitled to promote such teacher to the vacancy caused in L.T. grade who is required to teach the subject which the Committee of Management thinks necessary in the interest of the Institution.

7. The second submission of the learned Counsel for the Appellant is that the resolutions passed by the Committee of Management dated 14th September 1975 were malafide. The only allegation in the writ petition was that one Srikant Mishra was teaching Economics to the students of High School and there was no requirement of any other Economics teacher. It was not necessary for the Committee of Management to promote the Respondent No. 4 as L.T. grade teacher on the ground that there was requirement for teaching Economics to the students of High School. The Committee of Management merely for the purpose of conferring illegal advantage upon the Respondent No. 4 passed resolution promoting him to L.T. grade to teach Economics.

8. A detailed counter affidavit was filed on behalf of the Committee of Management and the allegations of the Petitioner were denied. It was Stated that Bhudeo Prasad Mishra was promoted to L.T. grade on the vacancy caused by

promotion of one Ramlakhan Sharma to lecturer's grade. Sri R.L. Sharma, while working in L.T. grade, was teaching Economics, Hindi and Sanskrit subjects up to High School standard. On his promotion in lecturer's grade a teacher was required for teaching Economics to High School students. Respondent No. 4 was the only teacher possessing minimum qualification for teaching Economics and Mathematics. The Committee of Management required a teacher who could teach Mathematics and Economics, both subjects. Various factors were taken into consideration including the strength of students in different subjects. The Respondent No. 4 was teaching Mathematics and Economics to the students of ninth and tenth classes even prior to the date of his promotion to L.T. grade.

9. There is no allegation of malafide in the writ petition against any person. It is the Committee of Management which has to take into consideration the strength of the students in particular subject, the qualifications of the teacher concerned and the subjects which he can teach, On the facts disclosed in the counter affidavit it is clear that Sri R.L. Sharma was teaching Economics subject who was later promoted as lecturer and on his post Sri Bhudeo Mishra was promoted in L. T. grade. Later on he was also promoted, in these circumstances the Respondent No. 4 was appointed as L.T. grade teacher to teach Economics to the students of High School. The Committee of Management required a teacher who could teach Mathematics and Economics both to the students of High School and the Respondent No. 4 fulfilled qualification for teaching both the subjects. The fact, that one other teacher was also teaching Economics to the students of High School was sufficient or not for teaching in the institution, was a matter to be considered by the Committee of Management after taking into consideration the strength of the students and this Court cannot investigate in the matter about the requirement of the institution. The District Inspector of Schools approved the promotion of Respondent No. 4. The Appellant failed to establish malafide on the part of the Committee of Management. The learned Judge has rightly dismissed the writ petition.

10. There is no merit in the present appeal. It is accordingly dismissed. However, there will be no order as to costs.