
(1986) 02 AHC CK 0047
In the Allahabad High Court
Case No : Writ Petition No, 793 of 1980

Radhey Shyam & Another	Vs	APPELLANT
State of U.P.& Others		RESPONDENT

Date of Decision : 11-02-1986

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1986) 02 AHC CK 0047

Hon'ble Judges : S.C.Mathur, J and Kamleshwar, J

Final Decision : Disposed Of

Judgement

S.C. Mathur, J.—Petitioners Radhey Shyam and Guru Prasad have directed this petition against the selection and appointment of Opposite parties nos. 5 to 7 as C. T. Grade teachers in Gandhi Mission H.M.K.D. Inter College, Mohan, District Unnao. Their plea is that the selection has been held in violation of the Government Order providing for reservation in favour of Scheduled Caste candidates. Admittedly, the petitioners belong to the Scheduled Caste Category.

2. On 29/1979 an advertisement was issued for making appointments to three posts of C.T. Grade teachers. The petitioners and opposite parties nos. 5 to 7, apart from others, applied for being appointed against the said posts. The petitioners appeared at the interview. Finally, appointment orders were issued in favour of opposite parties nos. 5 to 7. Opposite parties nos. 5 to 7, admittedly, belonged to the General Category. The selection and appointment of opposite parties nos. 5 to 7 has occasioned the instant petition.

3. There is no dispute between the parties that the selection and appointment to the posts in question was to be made in accordance with the Government Order copy of which has been annexed as Annexure C I to the counter affidavit. In the advertisement also it had been specifically mentioned that out of three posts, two were reserved for Scheduled Caste candidates. The opposite parties have justified their action by pleading that the petitioners were not qualified in the subjects which the selected teachers were required to teach. It has been stated

that the first vacancy became available on 911978 and this vacancy was in respect of the subject of English. The second vacancy is alleged to have occurred on 2311978 in respect of General Subjects. The last vacancy occurred on 1681978 in respect of the subject of General Science. Learned counsel for the petitioners has submitted that there was no question of selection being made in accordance with the subjects. With reference to the qualification prescribed in Appendix "A" to Regulation 1 of the Regulations, framed under the U.P. Intermediate Education Act, the learned counsel submitted that no such prescribed (sic) has been made thereunder. The C.T. Grade teachers are required to teach students studying in Classes VI, VII and VIII. The qualifications prescribed of such teachers are as follows:

?Intermediate Examination with C.T., B.T.C. or J.T.C. or any other training qualification equivalent thereto.?

4. According to the averments made in the writ petition, which have not been disputed on behalf of the opposite parties, Petitioner no. 1 had offered Hindi, Sanskrit, Geography, Economics and Civics for his Intermediate Examination and Hindi, Geography and Political Science in B.A. Examination. The subjects in Intermediate, of Petitioner no. 2, were the same. In the B.A. Examination he had offered Hindi, Sanskrit and Political Science. Apart from these qualifications, both the petitioners possessed B.Ed. Degree. As such, it would be seen that both the petitioners fulfilled the qualifications prescribed in the Appendix.

5. In the Appendix the qualifications have not been prescribed with reference to subjects. It appears that this is so because a teacher who has passed the Intermediate Examination is expected to have working knowledge of the subjects which are taught in Classes VI to VIII. It is not the case of the opposite parties that the petitioners were unable to teach General Science and English of Class VI to VIII Standard. In our opinion, therefore, the petitioner could not be considered to be disqualified on the ground that they had not offered English in their Intermediate and B.A. Examinations.

6. Learned counsel for the management had submitted that in terms of the Government Order, upon which reliance has been placed by the petitioners, the two petitioners could claim appointment only against the first and the last vacancies which were in the subjects of English and General Science respectively. On this basis it was further submitted that since the petitioners did not possess the requisite qualifications for teaching English and General Science, they could not be selected and appointed. We have already negatived the plea of the Management on the ground that the qualifications prescribed are not subjectwise. Therefore, the petitioner's exclusion from the field of eligibility is unjustified.

7. Although we are of opinion that the petitioners were unjustly dealt with, we do not propose to quash the selection of opposite parties nos. 5 to 7 as they have been teaching since the year 1980 and their ouster will cause undeserved

hardship to them. However, the petitioners are also entitled to appropriate relief. In fact, the petitioners themselves in their supplementary affidavit, dated 28/2/1985, stated that they could be accommodated without dislocating opposite parties nos. 5 to 7. In our opinion, the interest of justice would be met if we direct the Management to consider the appointment of the two petitioners against the existing and future vacancies in the C.T. Grade.

8. In view of the above, the petition is partly allowed and a writ of Mandamus is issued against the opposite parties nos. 1 to 4 commanding them to consider the case of the petitioners for appointment as C. T. Grade teachers in Gandhi Mission H.M.K.D. Inter College, Mohan, District Unnao, against the existing vacancies and if no vacancy is existing at present, against future vacancies.

9. The petitioners will be entitled to costs from opposite party no. 4.

[Petition partly allowed.]